



High Authority
for Transparency
in Public Life

Activity Report 2019



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in Public Life

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Established pursuant to Article 20 of the Act of 11 October 2013 bearing on transparency in public life, and Article 21 of the Act of 20 January 2017 on the general status of independent administrative authorities and independent public authorities.

Foreword

Publication of the High Authority's Activity Report is always a highly strategic occasion for the Institution as it serves as a showcase for our action to promote transparency and ethics in public life.

It is of special significance in that it bears on the final year in office of the High Authority's first President, Jean-Louis Nadal, to whom I should like to pay heartfelt tribute for the work he has accomplished. During his term of office, the High Authority carried out its missions to the full and contributed to the emergence of new practices and behaviours.

As President of the High Authority appointed by the President of the Republic in January 2020, it is now up to me to present this Activity Report for 2019 in continuation of President Nadal's action, so underscoring the essential principle of continuity of the public service.

The question of continuity of the public service cannot be limited to a formulaic reminder of an obvious principle. The publication of this Activity Report comes at a time like no other, when our country is having to deal with an unprecedented health crisis. As I write these words, France is just coming out of a period of rigorous lockdown that has challenged our ability to react to this major crisis and come out of it all the stronger. In a period that requires each and every one of us to draw on our resources to the full, trust in public life constitutes the very basis of the structuring decisions that will have to be taken in order to put the country to rights and ensure that the Nation lives, not "as before" but with greater awareness of the responsibilities incumbent upon us.

2019 was an important year for the High Authority. Thanks to legislative reform on a scale unseen since its creation, this very special Institution is more than ever able to contribute to transparency and ensure public integrity through its opinions and publications.

The Act of 6 August 2019 on transformation of the civil service completely redefined the High Authority's scope of action, making it the sole institution responsible for ethical control of civil servants and public officials. The reshaping of public action, marked by ever more frequent comings and goings between the public and private sectors, required a renewed focus on prevention of conflicts of interest, which is why a "pre-nomination" control was introduced.

The High Authority also steadfastly and determinedly continued to control public officials' declarations of assets and interests, work that resulted in referral of twenty-three cases to the courts after its departments identified potential

criminal offences. The obtainment of a right of independent communication and a power of administrative sanction, under the auspices of the courts, would constitute a major advance in the performance of our missions, without prejudice to the regular ongoing dialogue that we maintain with public officials, a crucial vector for appropriation of their declarative obligations. The continuing development of our external actions and training programmes helps towards this goal. This fifth Activity Report also provides an opportunity to give further consideration to the legal framework governing the register of interest representatives, which currently lists over 2,000 entities and 20,000 declared activities, so highlighting previously unpublished information and providing essential insight on development of standards. The system's credibility and efficacy are nonetheless based on consolidation of the powers to carry out documentary and onsite controls, and on the register's gradual, measured extension.



This annual assessment, which also fulfils a duty of information, explanation and education, is the result of work tirelessly carried out by the High Authority's Board and employees, guided on a daily basis by the principles of transparency, independence, impartiality and adversariality, which are also my own.

They encapsulate everything that the High Authority's aspires to as an entity which, since its creation, has become a major institutional actor at the service of probity and transparency. I should like to take this opportunity to emphasise the significant advances made in this respect. The initial uncertainties expressed by a number of public officials have given way to a firm resolve to comply with declarative obligations and better appropriation of the ethical principles that apply to them. Such principles are by no means always innate, at a time when public life is typified by numerous complex interactions. I should like to commend all the public officials who have made the effort to adapt. As these new requirements are now firmly established, any step backwards is out of the question and the High Authority will once again be tireless in continuing to carry out its missions in 2020, at the service of public trust.

Didier Migaud

President of the High Authority
for Transparency in Public Life

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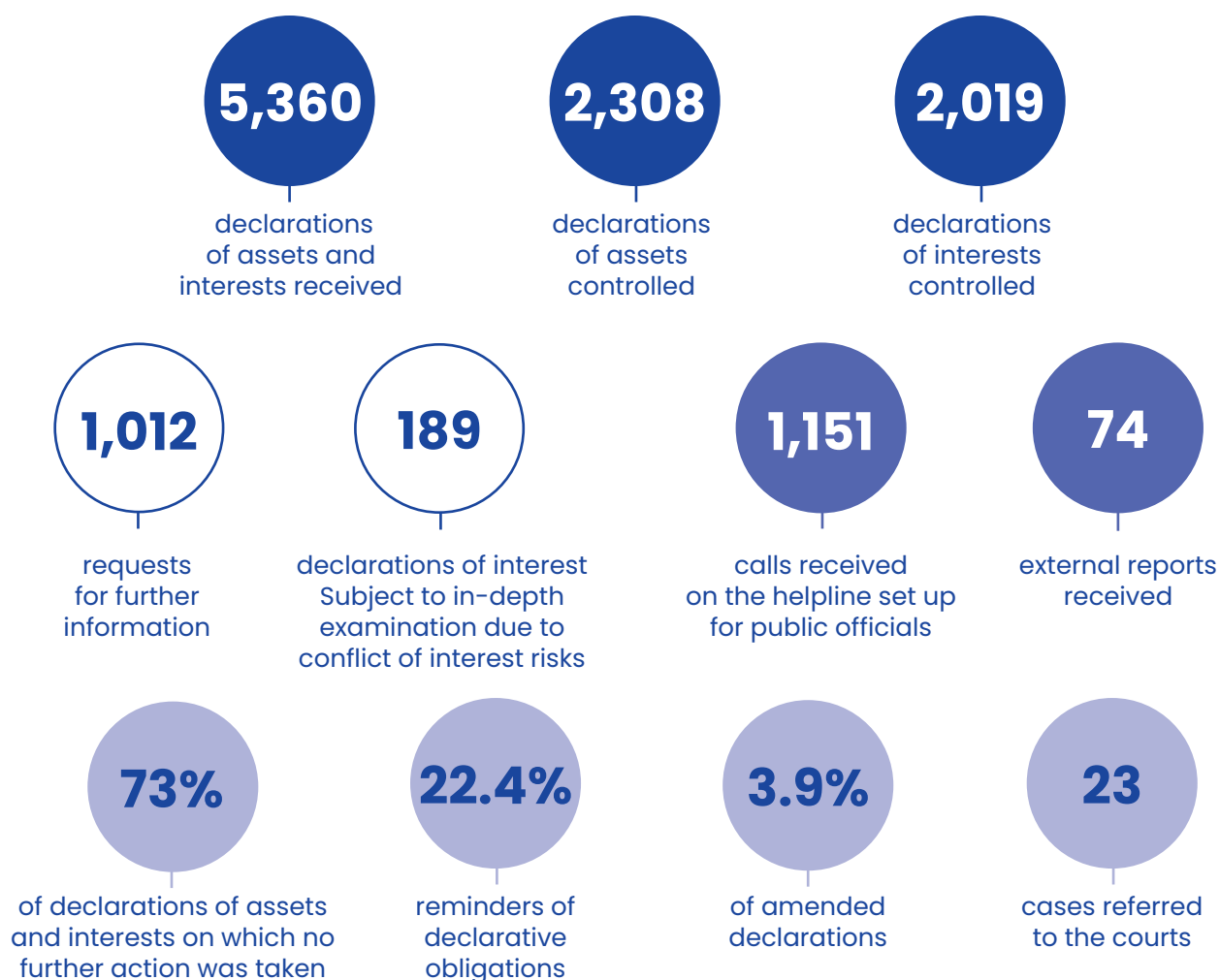
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By entrusting the High Authority with new prerogatives with respect to public servants, the Act of 6 August 2019 on transformation of the civil service led to significant institutional changes at executive board and departmental levels alike (I). The High Authority's longstanding mission, the monitoring of public officials' assets, remains unchanged (II), as does its role in detection and prevention of potential conflicts of interest combined with the essential assistance it lends to public officials in appropriation of their ethical obligations (III). 2019 was also marked by development of the interest representation regulation activity and stepping up of controls (IV). Lastly, the High Authority continued to be fully committed to its mission of spreading an ethical culture while cooperating ever more closely with integrity actors in France and abroad (V).

Key figures for 2019

Control of declarations of assets and interests



Advice on ethics

- 25** opinions on advice on ethics
- 18** opinions on projects for professional transition to the private sector
- 26** questionnaires on financial instruments received

Board

- 21** meetings of the Board
- 2,183** examinations of declarations carried out

Supervision of interest representation

1,956 organisations included in the register of interest representatives

89% of final declaration rate (after reminder)

6.24 interest representation actions declared on average for the declarative year 2018 (review published in 2019)

166 letters sent for control of interest representatives

150 organisations included on the list of interest representatives that have communicated none or only a part of the information required by law

1,666 calls received on the helpline

Transparency

2,395



declarations published on **hatvp.fr** and in prefectures

5,169



declarations of assets and interests consulted on **hatvp.fr**

1,978



interest representatives' sheets consulted on **hatvp.fr**

1,677,622



pages viewed on **hatvp.fr**

Administrative and financial management

BUDGET

6.3 M
euros

STAFF

56

External representation and international relations

40

participations in colloquia and training courses in France

17

trips abroad

25

foreign delegations hosted

Milestones in 2019

Work seminar
with the European
Ombudsman

p.126

" Info Day"
information
session for interest
representatives

p.95

Senate hearing of
The High Authority's
President, Jean-Louis
Nadal, on the Bill on
transformation
of the civil service

p.21

Publication of
the Ethics Guide

p.115

12
February

22
February

11
April

16
April

Renewal
of the Anticor
association's
accreditation

p.116

Council of State ruling:
the assessment of
a declaration of assets is
an act adversely affecting
the individual concerned

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Act of 6
August 2019 on
transformation
of the civil service

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2nd Meeting of
Ethics Officers in
the Public Sphere

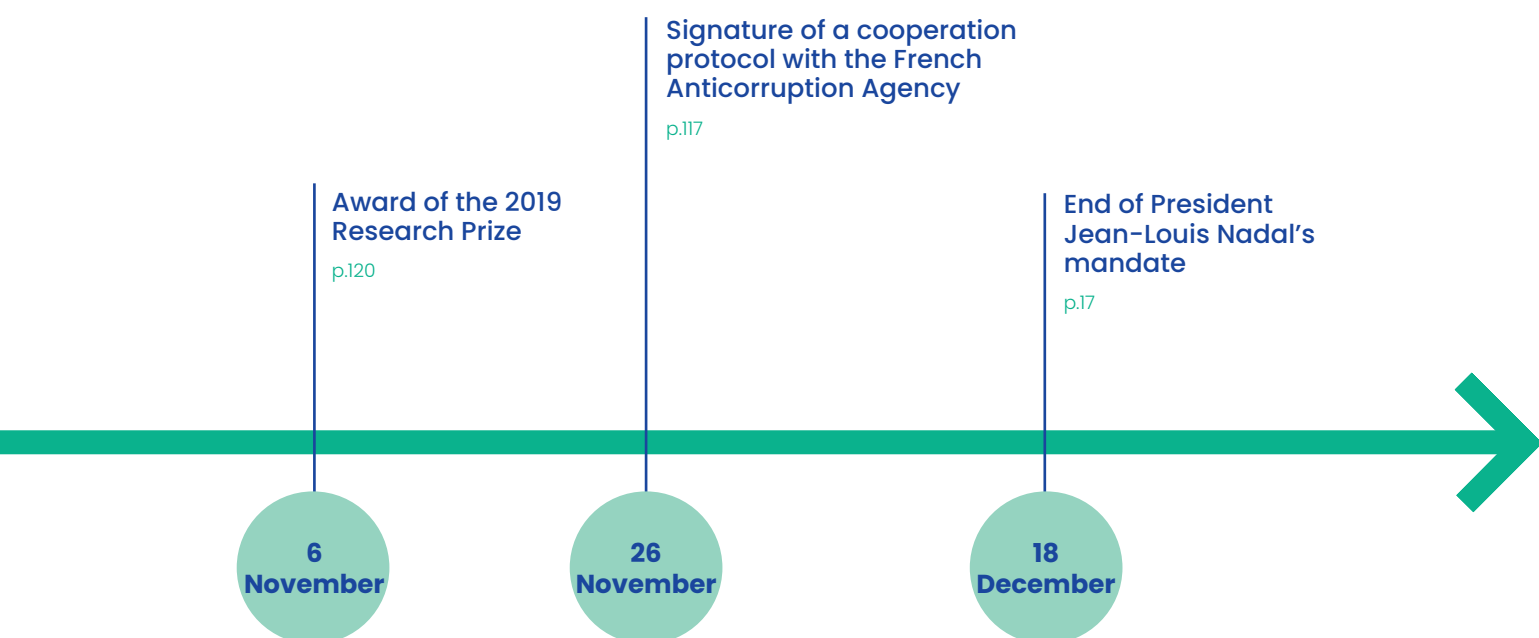
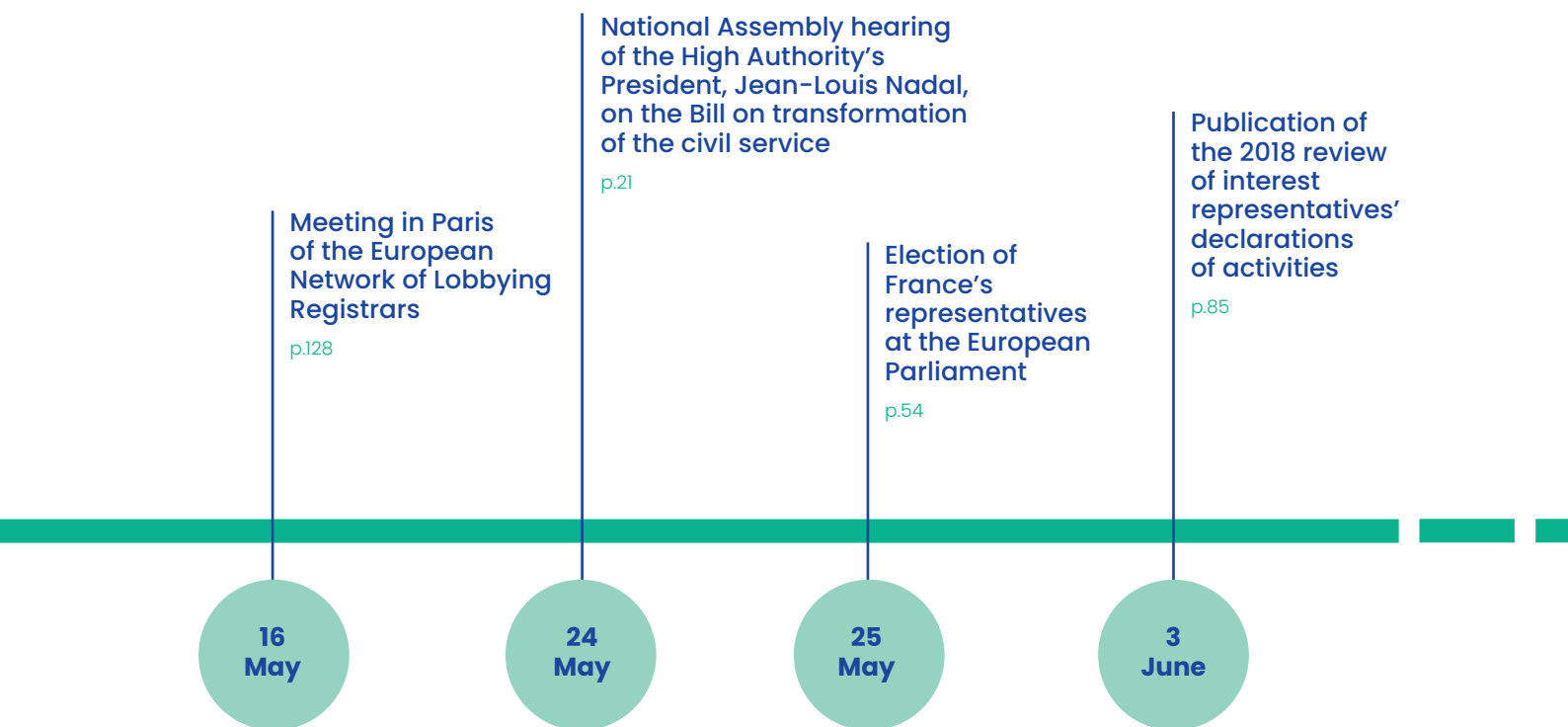
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10
July

19
July

6
August

19
September





Part I

The High Authority for Transparency in Public Life in 2019

1. Independence and collegiality

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2. Human and financial resources

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Horizon 2020: the Act of 6 August 2019 on transformation of the civil service and renewal of the ethical framework governing the public sphere

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The High Authority's independence is ensured by its status as an independent administrative authority and the ways in which the members of its Board are appointed. It precludes any relationship of subordination with the political or judiciary branches of government.

1. Independence and collegiality

1.1 Operation of the High Authority's Executive Board

The High Authority's "Collège" (Executive Board) has decision-making powers with regard to implementation of the prerogatives entrusted to it by law. The President of the High Authority is appointed for a period of six years, upon the President of the Republic's decree following the opinion of the National Assembly's and Senate's Law Commissions¹. The Board's members are also appointed for a period of six years. As a guarantee of their independence, their mandate is non-revocable and non-renewable, as is the President's.

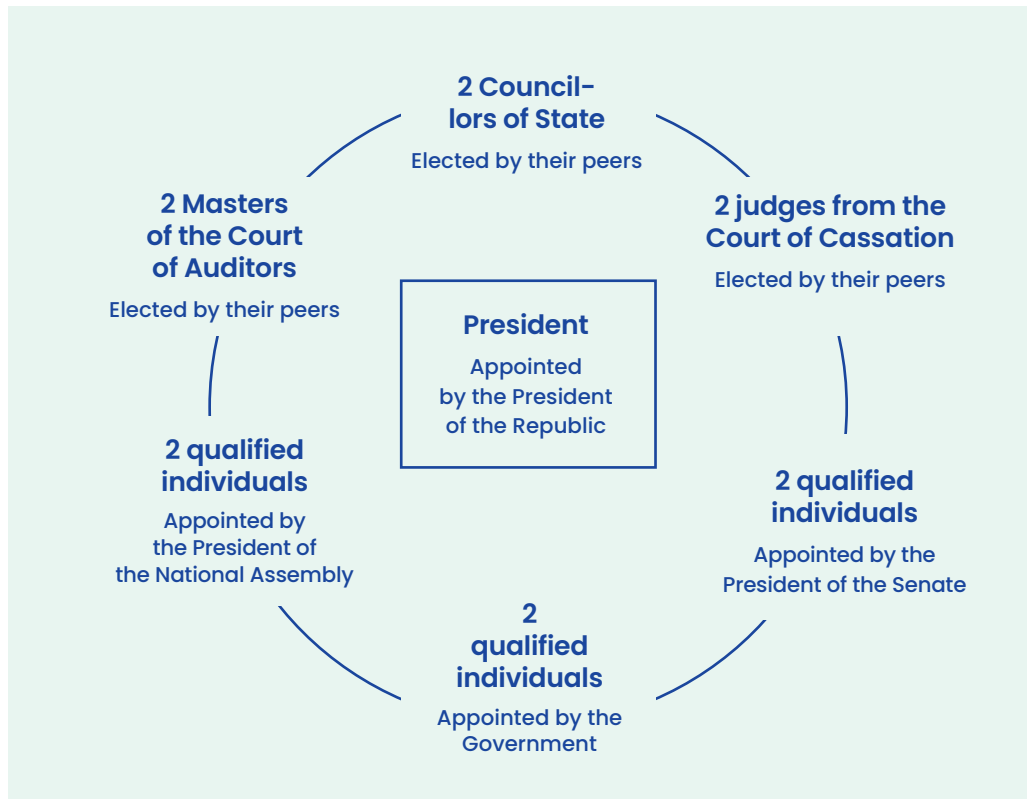
1. In compliance with the procedure provided for in the fifth subparagraph of Article 13 of the Constitution.

Timeframe for renewal of Board members

December 2019	Renewal of the President, members from the Court of Cassation and the member appointed by the President of the Senate
February 2020	Nomination of new members, pursuant to the extension of the Board provided for by the Act of 6 August 2019 on transformation of the civil service
December 2021	Renewal of members from the Court of Auditors
January 2023	Renewal of the member appointed by the President of the National Assembly
December 2023	Renewal of members from the Council of State

Six members of the Board come from France's highest courts (Council of State, Court of Cassation and Court of Auditors) and are elected by their peers. The President of the National Assembly and the President of the Senate each appoint a qualified individual following agreement by three fifths of the members of each body's Law Commissions.

1.2 Composition of the High Authority's Board



The extension of the competences entrusted to the High Authority, which has taken over various missions previously carried out by the civil service's Ethics Committee (*see below*), was accompanied by an increase in the size of the Board, which now has 13 members. The President of the National Assembly and the President of the Senate each appoint a second qualified individual, while the Government appoints two qualified individuals. These latter must not have been "*members of the Government or members of Parliament, or held any of the positions listed in I of Article 11 [of the Act of 11 October 2013] for at least three years*". The Act made it possible for the President of the High Authority to invite the ethics officers from the administrations to which the individuals concerned belong to attend the Board's deliberations, without voting rights.

New rules on the Board's composition were also enacted. Hence, at least one judge from the Court of Auditors, one from the Council of State and one from the Court of Cassation must now be actively in office at the time of their nomination.

The President

Didier Migaud was appointed President of the High Authority by the President of the Republic's Decree of 29 January 2020, after being heard by each Assembly's Law Commissions, which approved his nomination by a wide majority.



Member of Parliament for Isère from 1988 to 2010, Didier Migaud also used to be a member of the National Assembly, holding the successive positions of the Finance Commission's General Rapporteur (1997–2002), Quaestor (2002–2007) and President of the Finance Commission (2007–2010). Along with Alain Lambert, he co-authored the Organic Law on Finance Laws (LOLF), the State's new budgetary constitution adopted in 2001. He has also served as a local elected representative, as Mayor of Seyssins and President of the Grenoble agglomeration community, from 1995 to 2010.

Didier Migaud was appointed First President of the Court of Auditors in 23 February 2010. As such, he also presided over the Budget and Finance Disciplinary Court (CDBF), the High Council of Public Finance (HCFP) and the Council of Mandatory Contributions (CPO).

Jean-Louis Nadal

President of the High Authority from 2013 to 2019

An alumnus of the National Centre for Judicial Studies (CNEJ) and a graduate of the Institute of Political Studies and the Toulouse Faculty of Law, Jean-Louis Nadal was appointed auditeur de justice (trainee judge) in 1965 and served successively as Public Prosecutor at the Bastia Court of Appeal (1991-1992), Public Prosecutor at the Lyon Court of Appeal (1992-1996) and Public Prosecutor at the Aix-en-Provence Court of Appeal (1996-1997). In December 1997, he was appointed General Inspector of the Judicial Services before taking over the Prosecutor-General's Office attached to the Paris Court of Appeal in March 2001. In 2004, he was appointed Public Prosecutor at the Court of Cassation by Decree of the President of the Republic.



Jean-Louis Nadal was the first President of the High Authority for Transparency in Public Life, serving from 2013 to 2019. Determined to restore confidence in public decision-makers and develop a culture of integrity at the service of democracy, he ensured that the High Authority became a recognised institution on France's institutional landscape. Over the course of his mandate, the High Authority was entrusted with two essential new missions: supervision of interest representation and ethical monitoring of public officials public-private mobilities.

Members whose mandate came to an end in 2019

Henri Bardet

Grégoire Finidori

Nicolas Boulouis

Bernard Pêcheur

Marie-Thérèse Feydeau

The Board



Michel Braunstein

Elected by the Court of Auditors' Council Chamber in December 2015

Michel Braunstein was a Master at the Court of Auditors. Holder of an Agrégation in history and alumnus of the National School of Administration (ENA), Michel Braunstein served as Inspector General of the Ministry of Education's administrative services, and as advisor to the Prime Minister's Office on school education, youth and sport between 1997 and 2001.



Michèle Froment-Védrine

Elected by the Court of Auditors' Council Chamber in December 2015

Michèle Froment-Védrine is a Master at the Court of Auditors. A Doctor of Medicine specialising in public health, Michèle Froment-Védrine has served as President of the Consumer Safety Commission (CSC), and Managing Director of the French Agency for Environmental and Occupational Health Safety (AFSSET).



Odile Piérart

Elected by the Council of State's General Assembly in December 2017

Odile Piérart was a State Councillor, President of the mission for inspection of administrative courts. An alumna of the National School of Administration (ENA), Odile Piérart has served as Secretary General of Administrative Courts and Administrative Courts of Appeal and President of the Nancy Administrative Court of Appeal.



Daniel Hochedez

Appointed by the President of the National Assembly in January 2017

Holder of a Master's in Law and a graduate of the Institute of Political Studies (IEP) in Paris, he joined the National Assembly's services as an administrator in 1975. In his time there, he served as Director of the Information Systems Department, and then, Director of the Public Finance Department up until June 2013.



Patrick Matet

Elected by the Court of Cassation's General Assembly in December 2019

A Doctor of Law and alumnus of the National School of the Judiciary (ENM), Patrick Matet was an Honorary Advisor at the Court of Cassation, where he served as Dean of Section of the Chamber handling litigation on arbitration, private international law, personal status and family estate law up until 2017.



Martine Provost-Lopin

Elected by the Court of Cassation's General Assembly in December 2019

An alumna of the National School of the Judiciary with a Master's in Law, Martine Provost-Lopin served as an advisor assigned to the Court of Cassation's Third Civil Chamber. She was First Investigating Judge at Créteil High Court before becoming an advisor to the Paris Court of Appeal, and then First Vice-President of the Paris High Court.



Anne Levade

Appointed by the President of the Senate in January 2020

Anne Levade has an agrégation in public law and is a Professor at Paris I Panthéon-Sorbonne University. She was a member of the Advisory Committee on Modernisation and Readjustment of the Institutions of the 5th Republic. She is the director of the Prép ENA Paris I-ENS administrative competitive examination preparation centre and chairs the French Association of Constitutional Law.



Frédéric Lavenir

Appointed by the Government in January 2020

An Inspector General of Finances, Frédéric Lavenir has occupied several posts at the Ministry of Economy and Finance. He was the Director of a BNP Paribas Group subsidiary before becoming the Group's Human Resources Officer. He was Director and CEO of CNP Assurances. He is Chairman of the Association for the Right to Economic Initiative (ADIE).



**Jacques Arrighi
de Casanova**

Elected by the General
Assembly of the Council
of State in February 2020

A graduate of the Institute of Political Studies (IEP) in Paris and alumnus of the National School of Administration (ENA), Jacques Arrighi de Casanova serves as Deputy President of the Council of State's Finance Section. He was advisor on constitutional questions to the Secretary General of the Government, Deputy President of the Council of State's Litigation Section, and President of the Jurisdiction Court before becoming President of the Council of State's Administration Section, a position he held up until 2019.



Sabine Lochmann

Appointed by the
Government in February 2020

Sabine Lochmann has been CEO of Vigeo Eiris since January 2020. A graduate of Paris 1 Panthéon-Sorbonne and the University of Davis, she previously worked as a company lawyer at Serete, JCDecaux and Johnson & Johnson, before joining BPI Group as its President.



Florence Ribard

Appointed by the
President of the
National Assembly
in February 2020

A graduate of the Institute of Political Studies (IEP) in Paris with a degree in law, Florence Ribard joined the National Assembly's services in 1988 as a deputy administrator. She served as Chief of Staff to Laurent Fabius when he was President of the National Assembly, and then at the Ministry of Economy, Finance and Industry.



Pierre STEINMETZ

Appointed by the President
of the Senate in May 2020

A graduate of the Institute of Political Studies (IEP) in Paris with a Master's in Law and alumnus of the National School of Administration (ENA), Pierre Steinmetz served as a Prefect and held posts in Ministerial cabinets before becoming Director-General of the National Gendarmerie and then Prime Minister Jean-Pierre Raffarin's Chief of Staff in 2002. He officiated as Councillor of State Extraordinary before becoming a member of the Constitutional Council from 2004 to 2013.

1.3 Activities of the High Authority's Board

The Board meets at least twice a month to consider all cases initially examined by the Institution's departments. It rules on all declarations of assets and interests controlled and approves opinions on ethical issues delivered by the High Authority, as well as requests for opinions on various public officials' projects for professional transition to the private sector and possible nominations of public officials from the private sector.



The Board of the High Authority's hearing of Éliane Houlette on 10 July 2019

In its handling of the most complex and sensitive cases raising new legal questions, the High Authority's Board is assisted by rapporteurs from France's three highest courts, 13 in all in 2019, appointed following the President of the High Authority's opinion.

The President of the High Authority was also heard on four occasions by the National Assembly's and Senate's Law Commissions, on issues of public integrity and to answer parliamentarians' questions, in the context of work on the 2020 Finance Bill and on the Bill on transformation of the civil service.

The High Authority's Board also held four hearings² of its own in 2019. Such exchanges with integrity actors, whose missions complement those carried out by the High Authority, are designed to promote the sharing of expertise and best practices. Hearings involved the following individuals:

2. Article 19 of the High Authority's Rules of Procedure

Agnès Roblot-Troizier

National Assembly Deontologist, following publication of its annual activity report "Un nouvel élan pour la déontologie parlementaire" (New Momentum for Parliamentary Ethics)

Éliane Houlette

former Public Prosecutor at the National Prosecutor's Office for Financial Matters

Charles Duchaine

Director of the French Anticorruption Agency (AFA), in the context of the cooperation agreement signed between the two authorities in 2019³

Éric Alt

Vice-Resident of the Anticor association, with a view to renewal of the association's accreditation⁴

3. See p.117

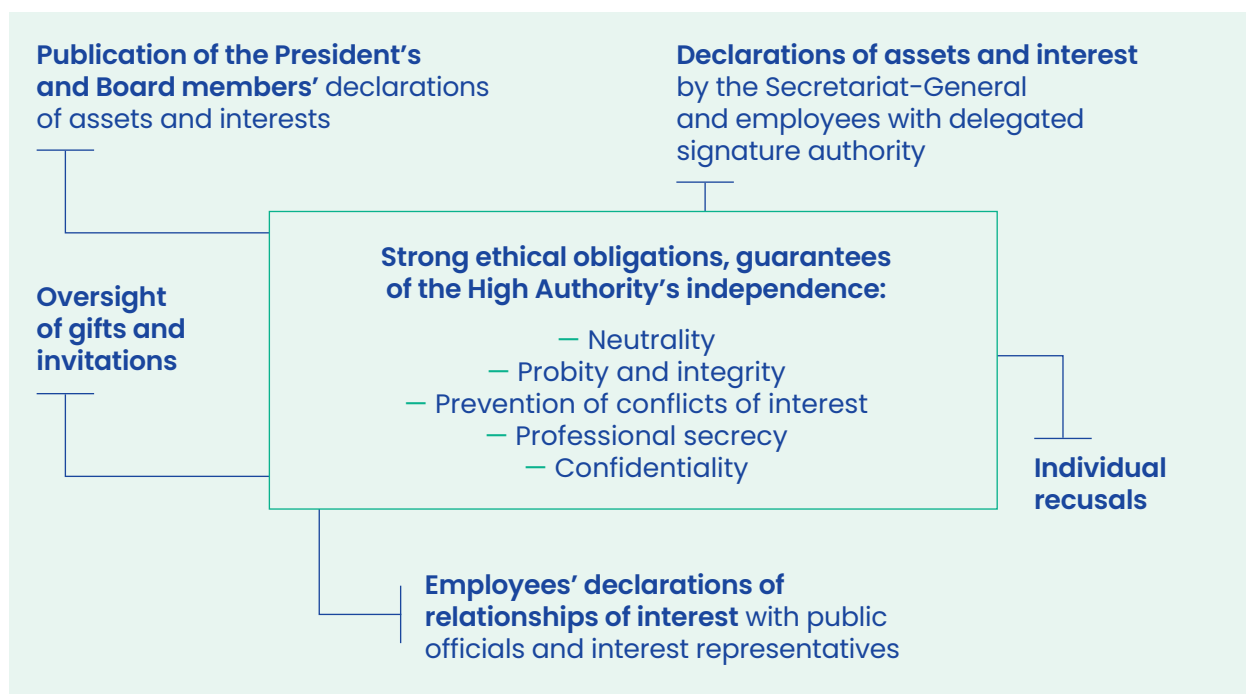
4. The accreditation procedure is specified in Article 42 of the High Authority's Rules of Procedure. See p.116

The Board's activities in 2019

- 21 Board meetings
- 4 Parliamentary hearings of the President
- 4 internal hearings
- 43 ethical opinions delivered
- 2,183 examinations of declarations carried out*

*2,183 examinations concerning 2,041 declarations of assets at start and end of service, and 1,343 initial declarations of interests. A single examination may cover several declarations by one and the same public official.

1.4 Guarantees of independence and application of ethical principles



Compliance with ethical rules on the part of the High Authority's members and employees

The members of the High Authority's Board are required to perform their duties with *"dignity, probity and integrity"*.

In 2014, the members of the High Authority's Board decided to commit to an obligation of declaration of their interests and assets. Their declarations are subject to prior in-depth control involving two rapporteurs specifically appointed for the purpose within the Board. This practice has since been ratified by the

legislature. Article 50 of the Act of 20 January 2017⁵ on the general status of independent administrative and public authorities provides that members complete a declaration of interests that must be made available to other members of their authorities' boards. In 2017, mindful of the need for transparency and exemplarity, the members du Board unanimously decided to commit to a further obligation by publishing their declarations of assets and interest on the High Authority's website.

5. Act no.2017-55 of 20 January 2017 on the general status of independent administrative authorities and independent public authorities

Such declarations aim to prevent possible conflict of interest risks in the performance of their missions. On the basis of these declarations, the Board has adopted guidelines on members' recusals enabling identification of declarants, entities or areas of activity for which Board members should recuse themselves. For example, judges appointed to the High Authority's Board refrain from participating in examination of cases concerning declarants belonging to or who once belonged to the same court as themselves, either at present or over the course of the last three years, or who state that they know them personally. Members who recuse themselves may not deliver opinions on the cases in question and must leave the deliberation room. Such facts are noted in the session's minutes.

Finally, Board members have a duty of strict professional discretion and confidentiality of information brought to their knowledge. Compliance with these two obligations is an essential guarantee of the Institution's legitimacy in the eyes of declarants and citizens alike.

The Secretary-General, Deputy Secretary-General and employees with delegated signature authority send declarations of assets and interests to the President of the High Authority. In order to avoid any possible conflicts of interests, Secretaries-General are subject to the same obligations of recusal as members of the Board, and their declarations also undergo in-depth controls.

In addition, the High Authority's employees and rapporteurs are also subject to binding ethical obligations, set out in the Rules of Procedure and in the welcome booklet delivered to new arrivals. When they first take up their duties and whenever necessary thereafter, all High Authority staff members must provide the Secretary-General and their immediate superiors with a list of declarants and interest representatives with whom they are likely to recuse themselves due to a relationship of interest. Subject to the public service principles of neutrality, probity and integrity, they are held to professional secrecy, even after they have left the Institution. Staff members may also refer in confidence to the High Authority's Ethics Officer for any ethical questions they may have.

Relations with third parties

Pursuant to the Rules of Procedure, members, rapporteurs and staff may not accept any gifts or invitations from declarants or interest representatives, except for official gifts and invitations valued at less than €15. They may not accept any gifts or invitations, whatever their origin or value, that they deem likely to place them in a conflict of interest situation. Official gifts must be reported to the ethics officer and are the subject of mandatory declarations.

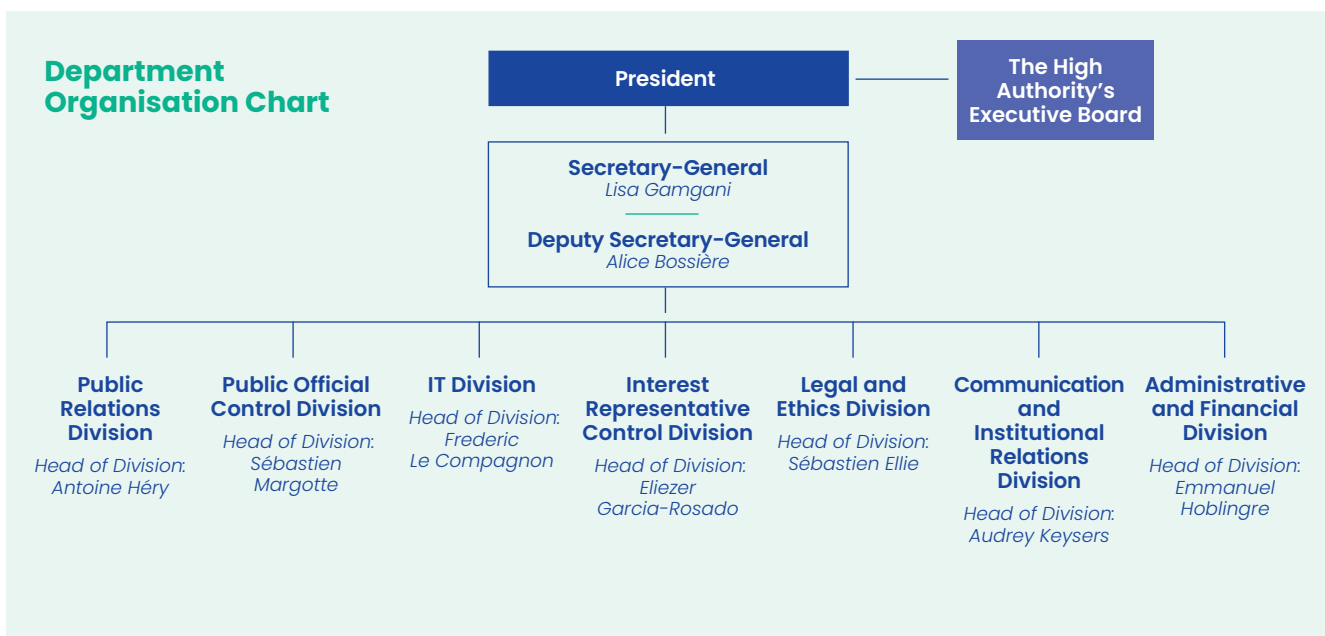
2. Human and financial resources

2.1 Organisation of departments

6. High Authority for Transparency in Public Life, Decision of 1 October 2019 on organisation of departments, published in the *Official Journal* of 4 October 2019

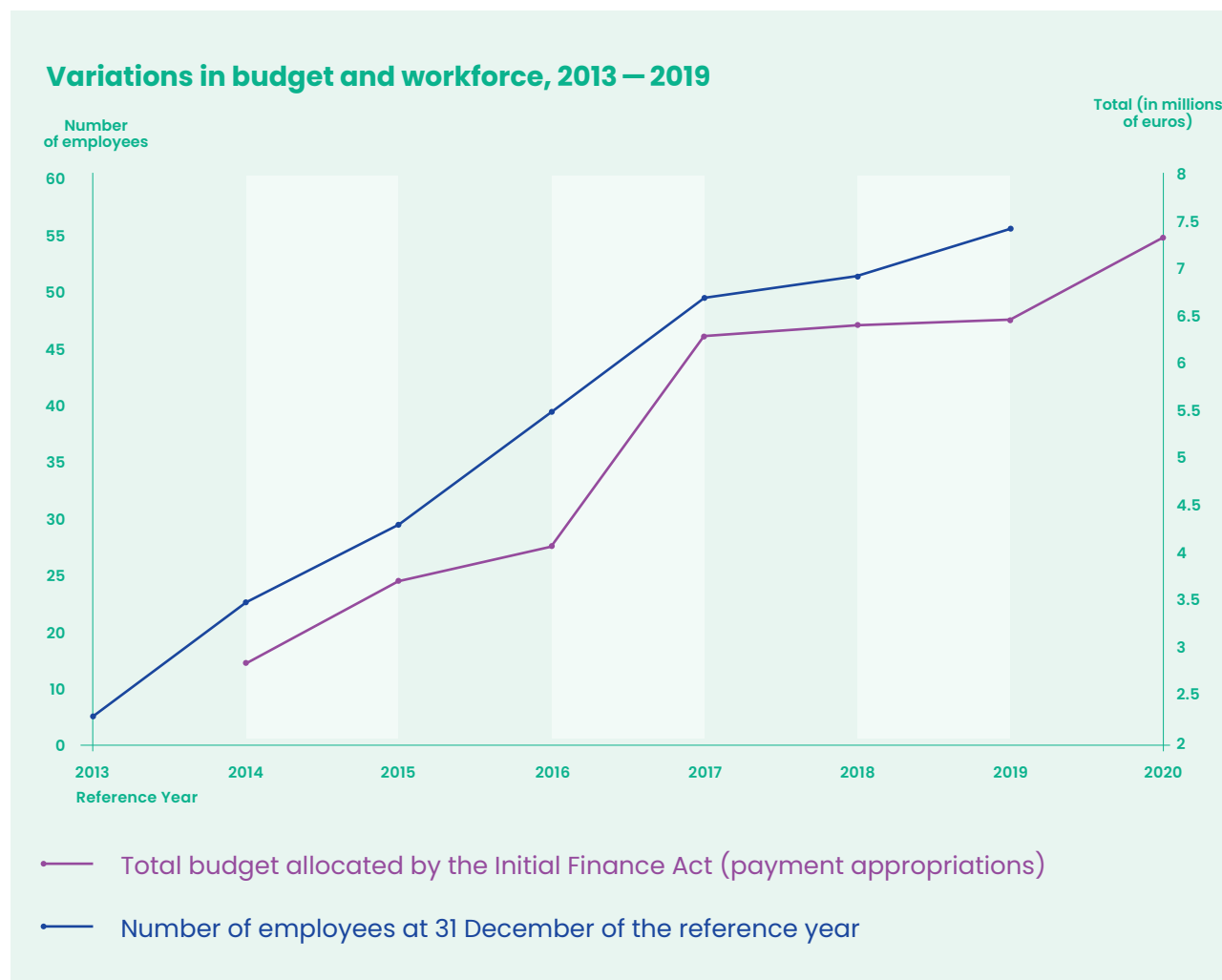
Following a restructuring procedure completed in October 2019⁶, the High Authority's departments are now organised into seven divisions with clearly defined missions.

Reorganisation of departments was accompanied by an update of the Rules of Procedure, the most recent version of which was published on 16 May 2018.



2.2 Administrative and financial management

The High Authority's budget is voted by Parliament and included in the Finance Act, in the context of Programme 308 of the "Management of Government Action" (DAG) mission.

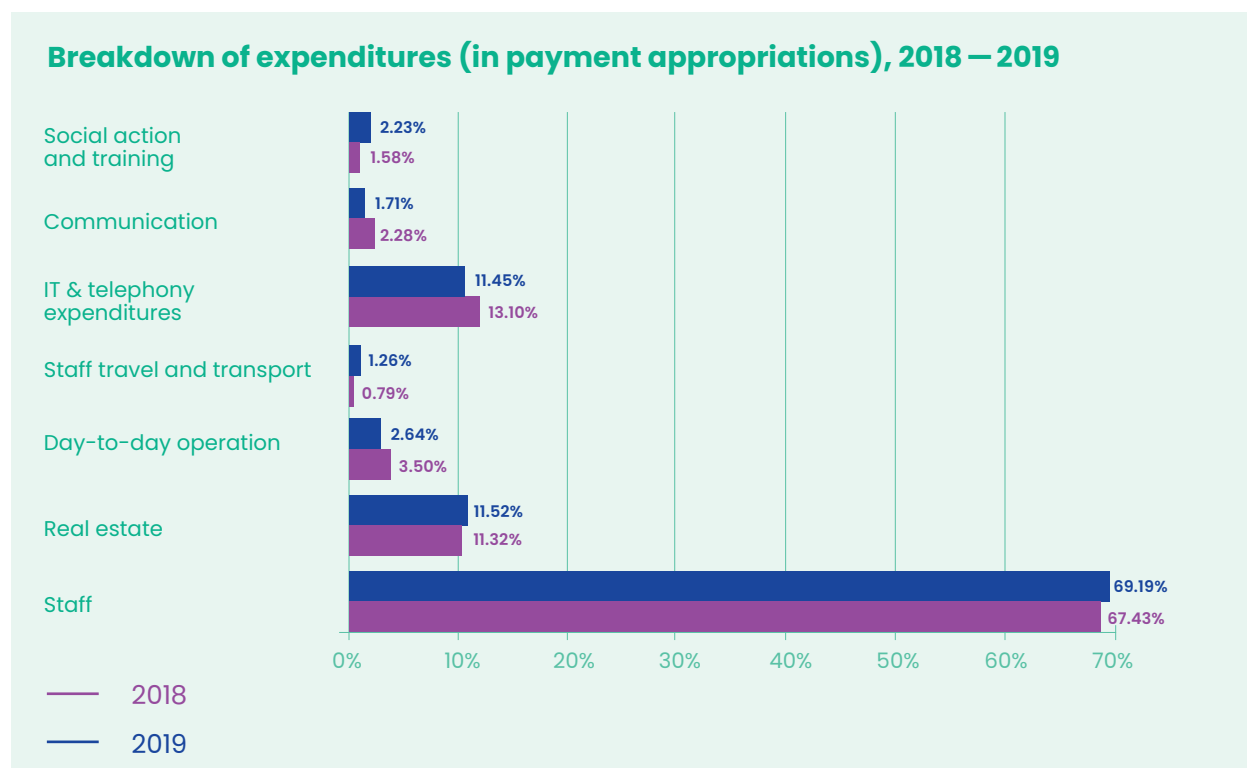


Since its creation, the High Authority's budgetary resources have been regularly increased in order to take account of the growth in its activity and the successive attribution of new competences. They will be increased in 2020.

In 2019, after setting aside funds, the High Authority was provided with 6.3 million euros. It saw a significant increase in its expenditures, which came to 6.02 million euros, as against 5.53 million euros in 2018. The first-rate execution of its appropriations (96%) shows that the increase was necessary, a sign of the High Authority's ongoing needs.

Two major events should be taken into consideration in the financial execution of programmes carried out in 2019. First of all, the move to new premises in the same building in rue de Richelieu led to an increase in leased surface area. Secondly, the prospect of transferring the civil service's Ethics Committee's competences to the High Authority required a modicum of fit-out work to be completed along with the upgrading of the new areas to meet current standards.

The wage bill continues to account for a major part of the High Authority's expenditures (4.06 million euros in 2019, as against 3.83 million euros in 2018). The other main expenditure items continue to be real estate and IT, which together account for 75% of the High Authority's running costs. In particular, the major expenditures on IT may be explained by the High Authority's need to maintain and develop the security and publication of the information it is entrusted with.



The average payment term is less than 15 days and the expenditure flow dematerialisation rate reached 92% in 2019 (as against a rate of 77% for the State as a whole).

With a view to rationalising its expenditures, the High Authority makes most of its purchases via the Prime Minister's Office's pooled procurement contracts and the Union of Public Purchasing Groups (UGAP).

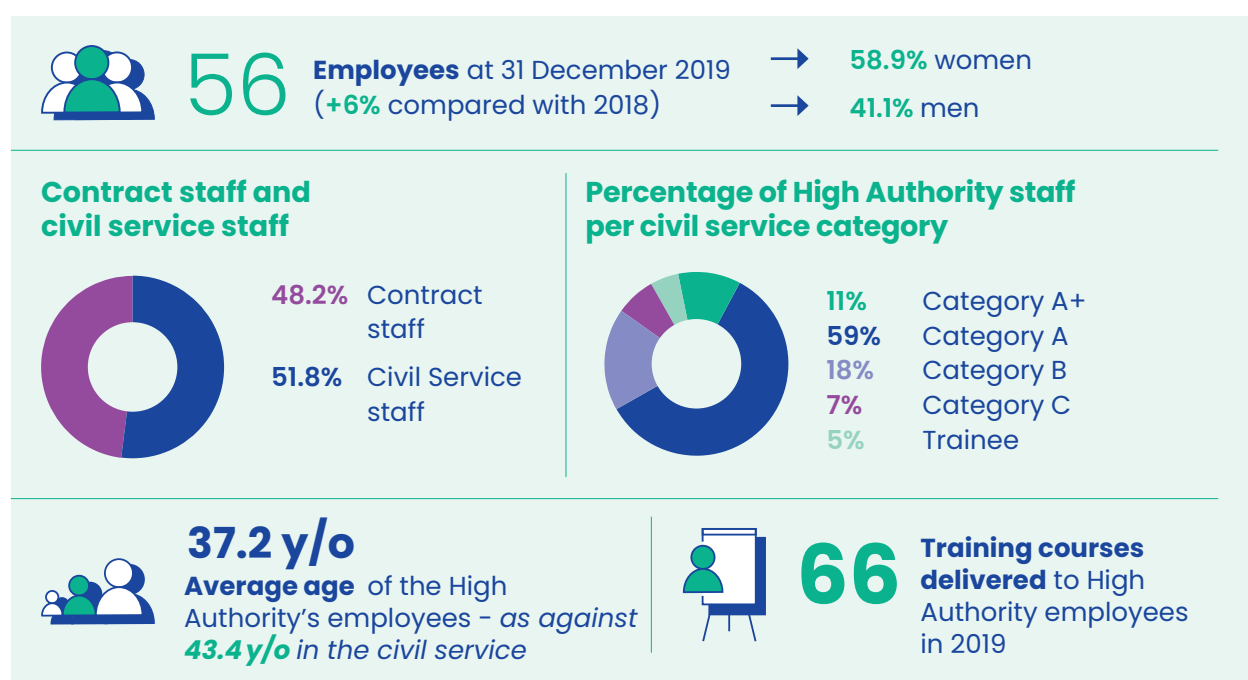
2.3 Human resources

At 31 December 2019, the High Authority employed 56 staff (51 full-time equivalent (FTE) jobs), an increase of 6% compared with 2018. Its workforce is set to grow: the 2020 Finance Act has granted the High Authority 57 FTEs, in order to accompany the development of its activities with regard to provision of advice to declarants and control of interest representatives.

Job vacancies to be filled at the High Authority are published on its website and relayed on social networks as well as on the French civil service's common recruitment platform, Place de l'emploi public.

Staff profiles

Staff profiles remained stable compared with the previous year, both as regards status – with almost equal numbers of contract and civil-service staff – and average age, six years lower than the civil service's national average (43.4 y/o).



In-house life at the High Authority

In 2019, in-house life at the High Authority was marked by discussion sessions that helped strengthen its teams' cohesion. A work seminar in which all staff participated was held in February, followed by a visit to the Court of Cassation. On the occasion of International Women's Rights Day, on 8 March, a conference-discussion was organised with the cartoonist Emma, with gender inequalities and mental load among the topics tackled.

HORIZON 2020

The Act of 6 August 2019 on transformation of the civil service and renewal of the ethical framework governing the public sphere

The Act of 6 August 2019 on transformation of public life⁷ brought far-reaching modification to the way that public officials' ethics are controlled.

The context in which the reform was adopted

Back in 2011, the Committee for Reflection on Prevention of Conflicts of Interest, chaired by Jean-Marc Sauvé, recommended setup of a single *"authority for ethics in public life"*⁸. As it stood, the civil service's Ethics Committee and the High Authority had fields of competence and methods of work and operation that were similar in many respects.

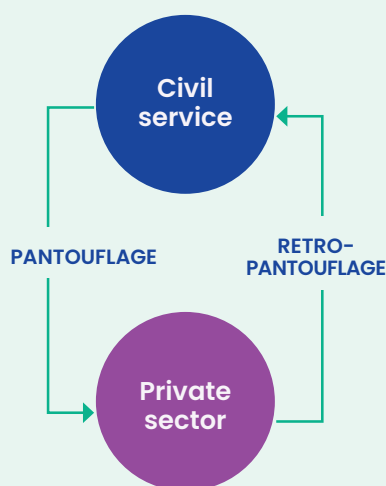
The Bill presented to the Council of Ministers on 27 March 2019 aimed to *"simplify the transparency and equity of the framework for management of public officials"* and expedite *"public officials'*

transition between the public sector and the private sector" by facilitating referrals. Professional transition to the private sector, as well as their return to the public sector (*see inset*), are now increasingly common practices among public officials. The ethical risks that accompany them are also greater. Such reshaping of public action required a stronger legal framework, which the Bill incorporated by establishing ethical safeguards that were *"corollary to encouragement of public-private mobilities"*⁹ as well as being guarantors of the neutrality, efficacy and continuity of public services.

The abolition of the civil service's Ethics Committee and transfer of various of its missions to the High Authority was not provided for by the initial Bill. These changes came about during legislative work, due to a system which, as it did not

establish priorities with respect to the nature and hierarchical level of certain functions, led to a significant number of referrals that the Committee had problems in handling owing to its limited resources. It had to process over 7,000 referrals a year, delivering tacit opinions on a majority of them (58%¹⁰).

7. Act no.2019-828 of 6 August 2019 on transformation of the civil service
8. Bill on transformation of the civil service – Presentation of grounds
9. Press file – Transforming the civil service, p.25
10. The Civil Service's Ethics Committee's Activity Report for 2018. Tacit opinions were delivered on 4,449 out of 7,695 cases, 58% in all.



“Pantouflage”

The term “pantouflage” (the equivalent of the English expression “revolving door”) refers to a senior civil servant’s or public official’s provisional or definitive professional transition to the private sector. The term was originally used by students at the Ecole Polytechnique to refer to the act of avoiding public service and entering the “pantoufle” (slipper, i.e. private sector), in contrast to the “botte” (boot), which meant civilian careers in State administrations. Correlatively, “retro-pantouflage” refers to a civil servant or public official who had switched to the private sector returning to the civil service.

These days, the term “pantouflage” has negative connotations, although exchanges between the public sector and the private sector may be advantageous to public life, provided they are supervised and controlled. Hence, the High Authority prefers to use the terms “professional transition” and “public/private mobility”, which are more neutral as well as being more representative of current practice.

Essential to the civil service’s vitality, such forms of professional mobility sometimes give rise to conflict of interest situations that might eventually “undermine the independent, impartial and objective performance”¹¹ of public duties. Such practices may also lead to violations of probity, such as unlawful acquisition of interests. Although such practices hypothetically concern all public-sector jobs, the ethical issues in question are particularly significant for jobs in the senior civil service, which involve high levels of responsibility.

In addition to the prerogatives conferred upon the High Authority in control of public officials’ mobility, the Act of 6 August 2019 on transformation of the civil service provides that the Government delivers an annual report to Parliament on the state of the civil service, including an appendix detailing “the situation of trainees and members of corps” recruited from French higher education institutions training students for public service, and in particular a status report on their obligation to serve.

11. Article 25 bis of Act no.83-634 of 13 July 1983 on civil servants’ rights and obligations, the “Le Pors” Law

Reform of the ways in which civil servants' and public officials' ethics are controlled

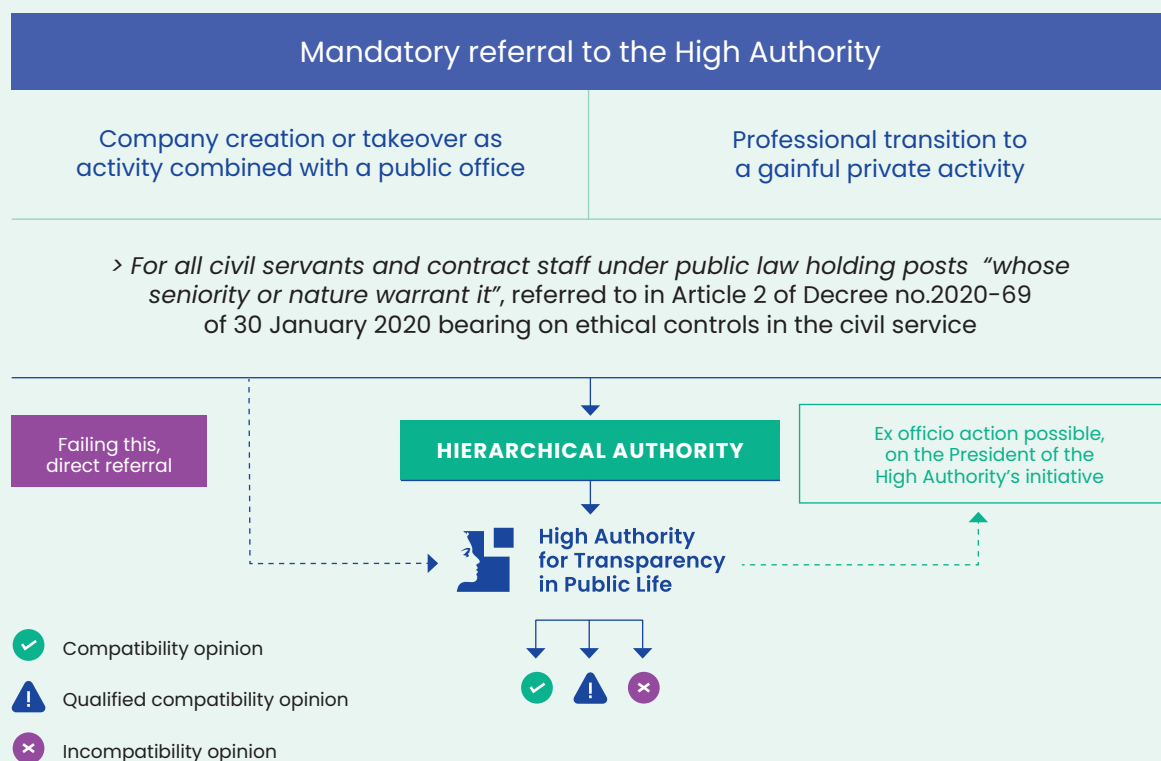
The Act of 6 August 2019 gave the High Authority new ethical control and advice competences with regard to civil servants and public officials, significantly redefining its scope of action. Such controls first and foremost concern plans for combining other activities with public offices and transition to the private sector. A new mechanism was also introduced: the so-called pre-nomination control. This preventive mechanism concerns the return of (seconded or available) public officials and recruitment of contract staff in the civil service, when the individuals concerned have engaged in gainful private activities in the three years prior to their nomination.

Monitoring of projects for company creation or takeover and for transition to the profit-making private sector

Unlike the mechanism that it has replaced, in which referrals to the Ethics Committee were mandatory for all civil servants and public officials with projects for company creation or takeover or professional transition to a gainful private activity, the High Authority's new controls will focus on the most strategic functions and most complex situations, in accordance with a subsidiarity principle.

The legislature wanted to make administrations accountable, responsible for ensuring that their staff complied with their ethical obligations, and to concentrate the High Authority's control activities on the most sensitive jobs, those whose "seniority or nature warrant it", as listed in Article 2

Company creation or takeover as an activity combined with a public office or professional transition to a gainful private activity



of the Decree of 30 January 2020¹²: these include all functions nomination for which requires submission of a declaration of interests or assets, along with a number of positions of particular importance, such as member of the Council of State, administrative judge or financial judge. Individuals holding such positions are obliged to inform their hierarchical authorities of their projects, and such authorities must now refer to the High Authority.

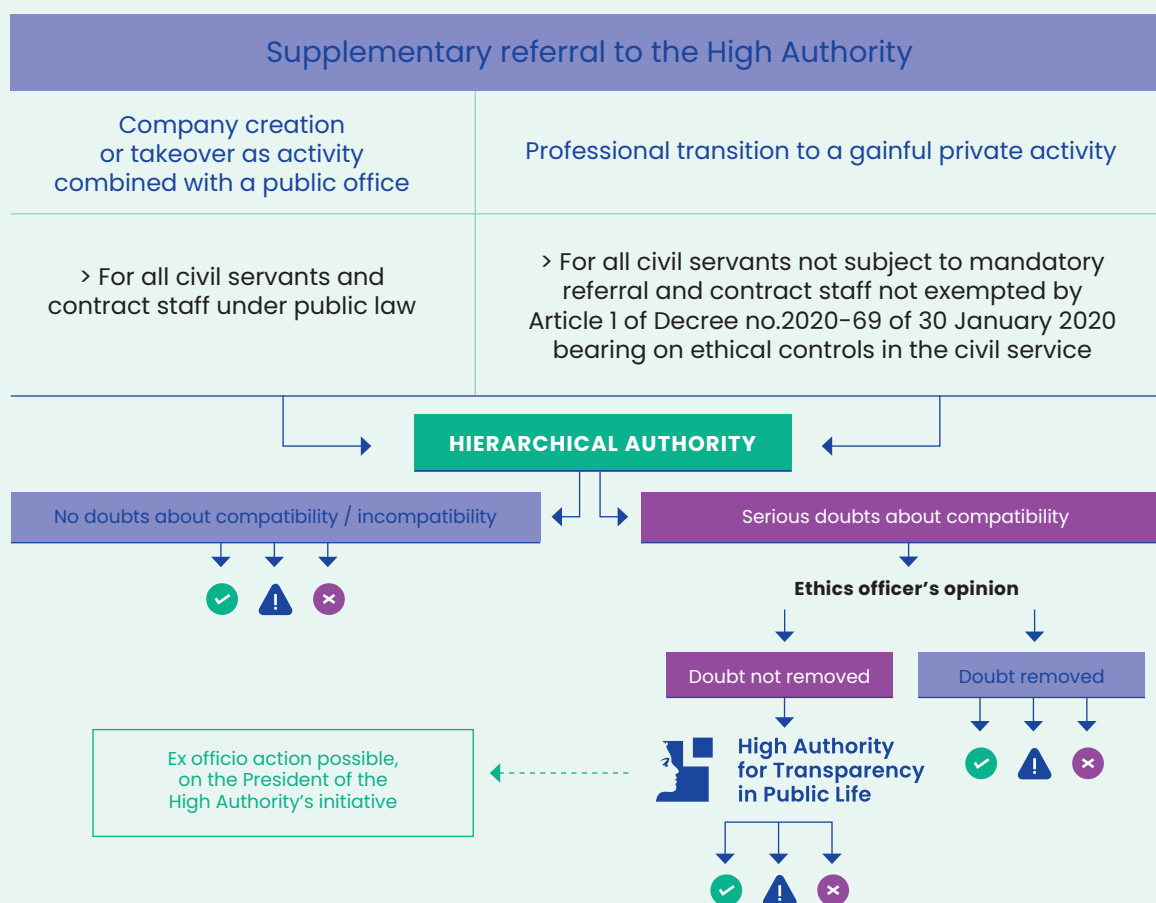
However, the scope of application of supplementary controls carried out by the High Authority varies for these two types of control. Certain categories of contract staff are excluded¹³ from supplementary control of their transition to the private sector, whereas supplementary control of company creation or takeover projects potentially applies to all civil servants

and public officials, in keeping with the missions carried out by the Civil Service's Ethics Committee.

In both cases, ethical controls are carried out first of all by the hierarchical authorities of the staff members concerned. If there is any serious doubt as to a project's compatibility, the hierarchical authority may request the opinion of the ethics officer attached to the entity concerned. If the ethics officer's analysis does not remove such doubt, the employee's hierarchical authority refers the matter to the High Authority.

12. Article 2 of Decree no.2020-69 of 30 January 2020 bearing on ethical controls in the civil service

13. Article 1 of Decree no.2020-69 of 30 January 2020 bearing on ethical controls in the civil service



Introduction of a new *a priori* control mechanism

Pre-nomination controls are required for civil servants returning from a mobility and recruitment of contract staff, when the individuals concerned have worked

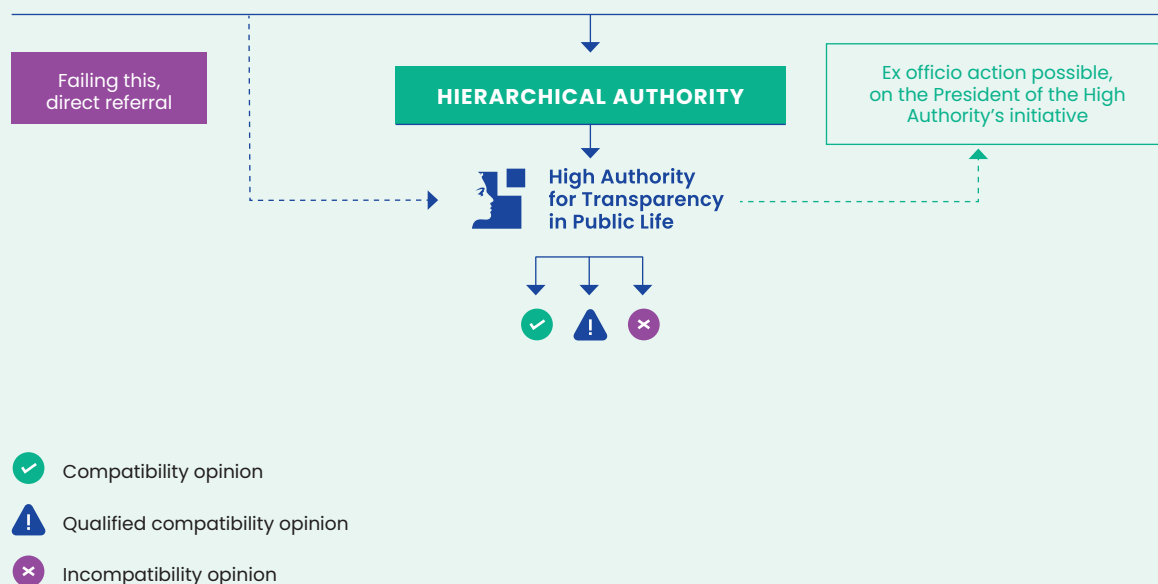
in the private sector during the three years preceding their nomination. When nominations are for job categories listed in II of Article 11 of the Act of 20 April 2016 and V. of Article 25 *octies* of the Act of 13 July 1983, the hierarchical authority must refer to the High Authority for opinion

Control prior to nomination of an employee who has worked in the private sector during the three years preceding their nomination

Mandatory referral to the High Authority

Control prior to nomination

- > For civil servants and contract staff under public law holding the following posts:
- Members of the President of the Republic's staff and members of ministerial cabinets
 - Directors of central administrations and public administrative establishments (EPAs) whose nomination is by Decree issued by the Council of Ministers
 - Managing Directors of regional and départemental services, municipalities with over 40,000 inhabitants and EPCIs with their own tax systems and over 40,000 inhabitants
 - Directors of public hospitals with budget exceeding 200 million euros



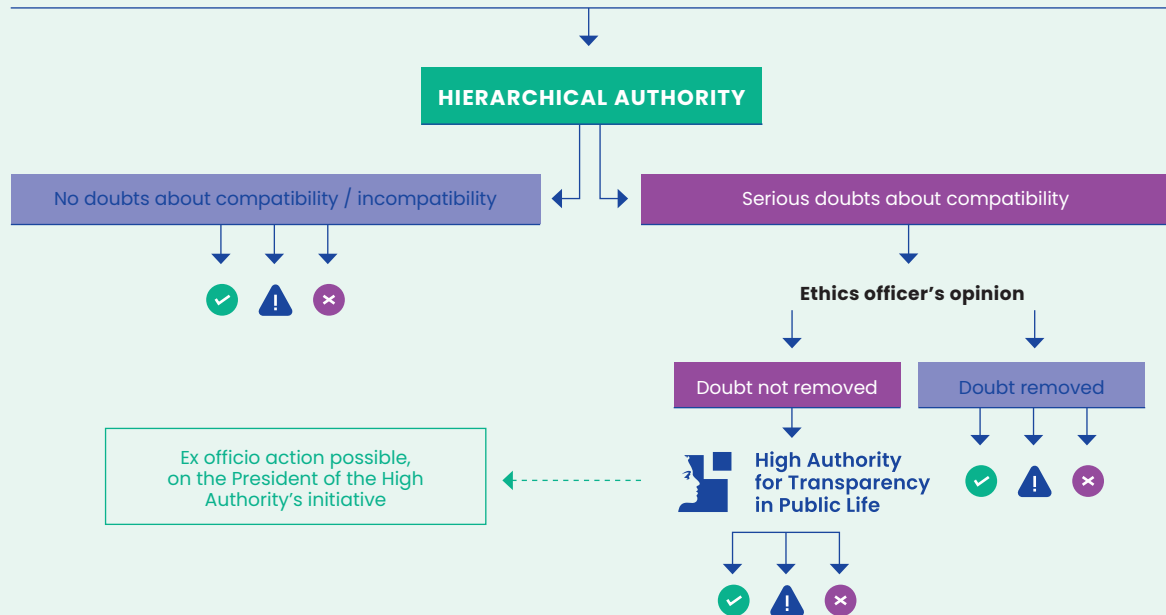
before making the nomination. In such cases, the High Authority checks the compatibility of the activities carried out in the private sector with the public offices envisaged.

Referrals may also be made to the High Authority in accordance with the general subsidiary regimen, when a hierarchical authority has serious doubts about the nomination of an individual to “a job whose seniority or nature warrant it”.

Supplementary referral to the High Authority

Control prior to nomination

> For all civil servants and contract staff under public law holding posts “whose seniority or nature warrant it”, referred to in Article 2 of Decree no.2020-69 of 30 January 2020 bearing on ethical controls in the civil service¹⁴



14. See Appendix 4, p.150

The Implementing Decrees of 22 and 30 January 2020

Two Decrees for implementation of the Act of 6 August 2019 on transformation of the civil service were published in the *Official Journal* in January 2020, providing substantial details with regard to the public officials subject to the new controls. First of all, the Decree of 22 January 2020¹⁵ lowered the thresholds relating to the obligation of communication of declarations of interests. Managing Directors and Deputy Managing Directors of services are now subject to the new controls, as are Managing Directors of municipalities' technical services and Public Establishments for Intermunicipal Cooperation (EPCIs) with their own tax system and over 40,000 inhabitants (as against 80,000 previously). The Decree also specifies how and to whom initial and amended declarations of interest are to be communicated.

The Decree of 30 January 2020¹⁶ provides substantive details on the carrying out of missions transferred to the High Authority

and effective as from 1 February 2020. It delimits the scope of application of ethical controls carried out with regard to projects for company creation or takeover, professional transition to the private sector and pre-nomination, by specifying the jobs "whose seniority or nature" warrant such controls.

The two Decrees bring greater clarity to the types of jobs and employees that the High Authority must now be familiar with in order to carry out its new missions, so facilitating identification and enumeration of the new categories of public officials subject to its controls.

15. Decree no.2020-37 of 22 January 2020 amending Decree no.2016-1967 of 28 December 2016 on the obligation to communicate a declaration of interests provided for in Article 25 *ter* of Act no.83-634 of 13 July 1983 on civil servants' rights and obligations
16. Decree no.2020-69 of 30 January 2020 bearing on ethical controls in the civil service

The scope of application of the High Authority's new competences

<p>Company creation and takeover</p> <p>—</p> <p>around 14,000 jobs</p> <p>subject to mandatory ethical control</p> <p>+</p> <p>All other civil service jobs</p> <p>subject to supplementary ethical control</p>	<p>Nomination of an employee who has worked in the private sector during the three years preceding their nomination</p> <p>—</p> <p>around 1,500 jobs</p> <p>subject to mandatory prior control</p> <p>+</p> <p>around 14,000 jobs</p> <p>subject to prior supplementary control</p>	<p>Professional transition to the private sector</p> <p>—</p> <p>around 14,000 jobs</p> <p>subject to mandatory ethical control</p> <p>+</p> <p>All other civil service jobs except for those listed and filled under the conditions set by Article 1 of the Decree of 30 January 2020,</p> <p>subject to supplementary ethical control</p>
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Methods for carrying out the new ethical controls

Timeframes for the High Authority's controls

Types of control	Deadline for delivery of the High Authority's opinion		
	... on initial referral by the hierarchical /nominating authority (mandatory or supplementary referral)	... when it is referred to by the hierarchical/nominating authority for a second opinion*	... in the context of ex officio action by the High Authority on the President's initiative within three months
<ul style="list-style-type: none"> — Company creation or takeover — Professional transition to a gainful private activity 	2 months	1 month	2 months
Nomination of an employee who has worked in the private sector during the three years preceding their nomination	15 days	1 month	2 months

* The hierarchical or nominating authority may request a second opinion from the High Authority, within a month as from notification of the initial opinion.

Impact of the High Authority's opinions

Qualified compatibility opinions and incompatibility opinions are binding on the administrations and the staff members concerned. However, administrations are not obliged to follow compatibility opinions; they may decide not to allow an employee to create a company or join the private sector, in particular for reasons to do with the needs of the department concerned.

Public officials and civil servants who do not comply with such opinions are liable to disciplinary sanctions and, if they are retiring, may have up to 20% of their pensions deducted. Contract staff are

liable to immediate termination of their contracts and may be barred from being recruited into the civil service for a period of three years.

Finally, the High Authority may act ex officio at its President's initiative, within three months as from:

- a civil servant's or public official's creation or takeover of a company;
- the start of an activity in the private sector;
- the day on which it became aware of an administration's breach of the obligation of referral.

Part II

Controlling public officials' declarations



1. Review of declarations of assets and interests

- 1.1** Declarations of assets and interests received in 2019 **38**
- 1.2** Control of declarative obligations **39**
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4. Publication of public officials' declarations of assets and interests

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- 4.2** The issues involved in publication of parliamentarians' declarations of assets in prefectures **56**

The High Authority is responsible for collection and control of the declarations of assets and interests that almost 15,000 public officials, members of the Government, elected representatives and senior civil servants are required to submit at the start and end of their terms of office.

Control of declarations of assets submitted at start and end of service aim to examine variations in assets in order to detect any cases of illicit acquisition of wealth and refer them to the courts.

Control of declarations of interests submitted at start of service aim to detect and prevent conflict of interest risks.

Checking the accuracy and exhaustiveness of these declarations is an essential prerequisite for such controls, as the law makes it a criminal offence for public officials to omit a substantial part of their assets or interests in their declarations.

When carrying out these controls, the High Authority may also be required to detect any eventual violations of probity, such as unlawful acquisition of interests, misappropriation of public funds or bribery, which are also communicated to the Public Prosecutor pursuant to Article 40 of the Criminal Procedure Code¹⁷.

17. *“Any established authority, public official or civil servant who, in the exercise of their functions, learns of a crime or offence, is required to inform the Department of Public Prosecution thereof without delay and to transmit to the Department any information, reports or documents relating thereto.”*

1. Review of declarations of assets and interests

1.1 Declarations of assets and interests received in 2019

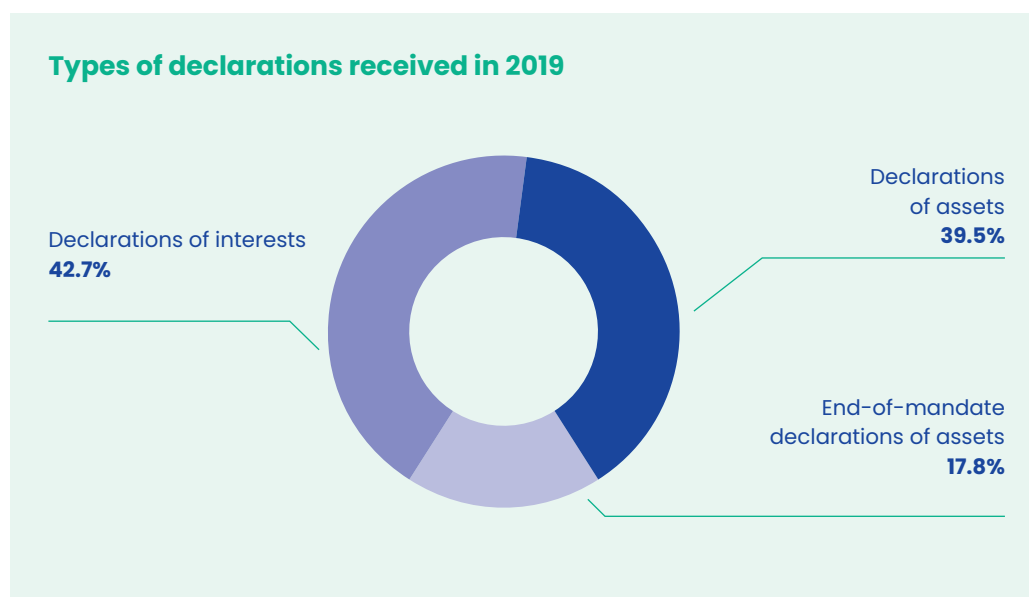
5,360 declarations of assets and interests were received in 2019, concerning 2,688 public officials:

- 2,116 (initial and amended) declarations of assets;
- 954 declarations of assets at end of term of office or service;

— 2,290 (initial and amended) declarations of interests.

The number of declarations submitted to the High Authority largely depends on the electoral calendar. The figure is therefore slightly lower than in 2018 (5,787), despite the election of 74 French representatives at the European Parliament in May, and represents an almost 50% decrease compared with 2017 (10,622), a year in which three major elections took place.

Numbers of declarations are expected to increase significantly in 2020, due to municipal elections, the first round of which took place on 15 March 2020, and the renewal of series 2 senators set to take place in September. Postponement of the second round of municipal elections and senatorial elections will result in the flow of expected declarations being delayed until late 2020 and 2021.



1.2 Control of declarative obligations

Officials coming within the High Authority's scope have two months as from their election or nomination to submit their declarations of assets and interests. End-of-service declarations of assets must be submitted within the two months following end of service. The deadline is different for parliamentarians, however (between seven and six months before end of term of office), and local elected representatives (between two and one months before end of term of office).



682 reminders



165 injunctions



**9 referrals
to the Public
Prosecutor's
Office for
non-declaration**

Finally, any substantial modifications of assets (succession, donation, marriage, divorce, loan contracted or repaid, etc.) or interests (new professional activity, new executive post, change of parliamentary assistant, etc.) must be notified within two months (one month for members of the Government) in order to update declarations.

If a public official does not comply with the deadline for submission of a declaration, an initial amicable reminder is sent, giving him /her notice to rectify their situation within eight days. In the absence of response on their part, the law provides for the High Authority's Board issuing an injunction that the declaration in question be communicated to it within one month as from notification of the injunction.

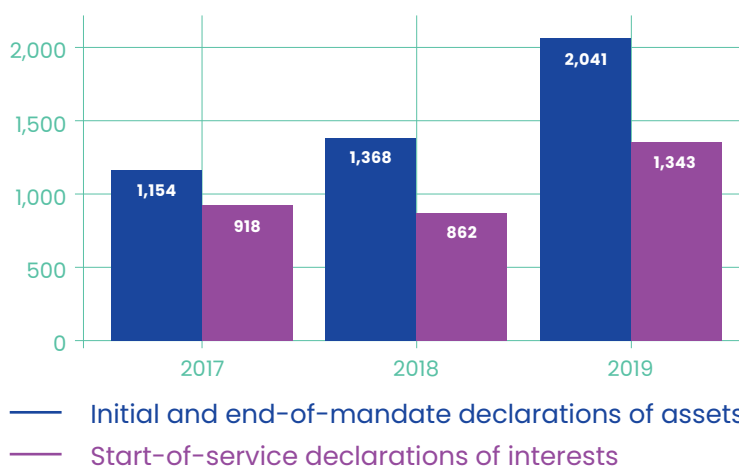
Following the 682 amicable reminders sent in 2019, 165 injunctions had to be issued against declarants who had not rectified their situations. The law provides that individuals concerned by injunctions have one month to submit their declarations or be liable to a year's imprisonment and a 15,000-euro fine.

The great majority of latecomers rectified their situations upon receipt of the injunction. The cases of nine public officials who had refused to put themselves into compliance were referred to the Public Prosecutor's Office, representing 1.3% of public officials to whom reminders had been sent.

1.3 Control of declaration content

*A reduction in control timeframes
despite lingering constraints*

**Number de declarations of assets and
declarations of interests controlled, 2017 - 2019**



The Acts of 11 October 2013 provided the High Authority with means of administrative investigation in order to ensure effective control of information declared by public officials. Since 2016¹⁸, the High Authority has had direct access to four of the tax authorities’¹⁹ databases in the context of examination of declarations of assets. This has been a major step forward, enabling significant reduction in the time it takes to control declarations and reducing the number of requests sent to the Public Finances General Directorate (DGFIP).

The High Authority’s departments may also require public officials’ income tax returns.

Organisational changes and development of a new in-house IT tool (“DELTA”) for studying variations in assets have helped facilitate the day-to-day work carried out by the High Authority’s staff, expressed by an increase in the number of controls per staff member and a decrease in the average time taken to examine assets situations. In 2019, the average time taken to control a declaration was 109 days.

However, the High Authority does not have the right of independent communication in cases where it needs items held by other administrations, companies and banks. It must therefore act via the tax authorities, which, relieved of the obligation of professional secrecy in its respect, may obtain the requested items. In 2019, the High Authority sent 202 complementary requests to the DGFIP²⁰. The obligation to send these requests via the DGFIP takes up tax authority employees’ time to no good purpose and significantly increases the time taken to carry out controls.

This situation does not obtain in other independent administrative authorities or other institutional integrity actors. The right to communication enjoyed by the Competition Authority²¹ could well be adapted to the specificities of the High Authority, which would then be able to require communication and obtain or make copies, by any means and on any medium, of bank accounts, balance sheets and profit-and-loss accounts, property deeds, proofs of payment and any other document, in whoever’s hands, likely to facilitate the accomplishment of its mission. It could also require that all means essential to carrying out its checks be made available to it, and collect, either onsite or upon notification, any information, document or proof necessary to controls. In practice, the right of communication should above all concern banks and financial institutions, insurance companies, State administrations, local authorities, public establishments and all individuals tasked with public service missions.

18. Act no.2016-1691 of 9 December 2016 implemented by Decree 2017-19 of 9 January 2017

19. Databases used directly by the High Authority are the National Wealth Database (BNDP); PATRIM, which enables estimation of the value of real-estate properties; FICOBA, an application provisioned by banks, which enables departments to know what bank accounts are held by declarants; and FICOVIE, an application equivalent to FICOBA, providing data on life insurance policies.

20. This figure includes requests for information sent to the DGFIP itself, for information that it holds in its own right, as well as requests for information sent to third parties, for which the DGFIP acts as a conduit.

21. Article L. 450-3 of the Commercial Code

The right to independent communication is guarantee of all-round independence and would enable more efficient and faster processing of declarations. It would also reduce duplication, as asset and tax procedures sometimes overlap, which is apt to cause confusion among some declarants. Without being limited to asset control alone, in order to be consistent, such right of communication should be extended to controls of interests and public officials' professional transitions to the private sector, as well as to controls of interest representatives.

PROPOSAL NO.1

ENABLE THE HIGH AUTHORITY TO OBTAIN DIRECT COMMUNICATION, IN PARTICULAR FROM BANKS AND FINANCIAL INSTITUTIONS, INSURANCE COMPANIES, STATE ADMINISTRATIONS, LOCAL AUTHORITIES, PUBLIC ESTABLISHMENTS AND ALL INDIVIDUALS TASKED WITH PUBLIC SERVICE, OF THE INFORMATION NECESSARY TO THE PERFORMANCE OF ITS CONTROL MISSIONS, IN COMPLIANCE WITH THE GUARANTEES REQUIRED BY THE CONSTITUTIONAL COUNCIL²².

22. In 2017, the Constitutional Council ruled against the Act no.2017-1139 of 15 September 2017 on trust in political life granting a right of independent communication to the High Authority, on the grounds that it would have enabled the Institution to have its declarants' connection data communicated to it.
See Constitutional Council, 8 September 2017, Dec. 2017-752 DC

Increasing numbers of exchanges with declarants

The adversarial principle guides the action taken by the High Authority, which, since its creation, has sought to engage in ongoing dialogue with public officials, who, at each stage of the control, are free to communicate complementary information and provide supporting documents. In the event of any major omission in a declaration of assets or interests, they may submit their observations before their declaration is assessed and prior to any communication to the Public Prosecutor's Office. They may also request to be heard by the rapporteur responsible for their case.

During preliminary examination of cases, departments often contact public officials to request further information on their situations as regards assets and interests. 1,012 requests for further information were sent to public officials by the High Authority's departments in 2019, as against 684 in 2018. This year, the response rate continued to be above 99%, with such cooperation on the part of declarants being clear proof of better appropriation of their declarative obligations and increased determination to be in compliance. 16 injunctions to obtain complementary items had to be issued, however: All the public officials concerned responded, so enabling completion of their controls.

2. Outcome of asset control in 2019

Orientations of the 2019 control plan

Every year, the High Authority's Board adopts a control plan defining the strategic orientations of controls to be carried out, targeting various categories of public officials due to their high exposure and responsibilities. Hence, this year the departments' work focused on:

- public officials coming within the High Authority scope of control for the first time; in order to obtain an accurate picture of their assets and prevent any conflict of interest risks upstream;
- declarants definitively retiring from their public offices, in order to control variations in their assets;
- the 74 French representatives elected to the European Parliament in May.

The last few months of 2020 should be marked by submissions relating to municipal elections, with the expected renewal of municipal executive bodies and directors of Public Establishments for Intermunicipal Cooperation (and their cabinets along with them), as well as the governing bodies of local public sector companies.

Assessment of declarations examined in 2019



2,308

declarations of assets controlled

- **2,041** initial and end-of-mandate declarations out of **2,267** controls undertaken
- **267** amended declarations



3,070

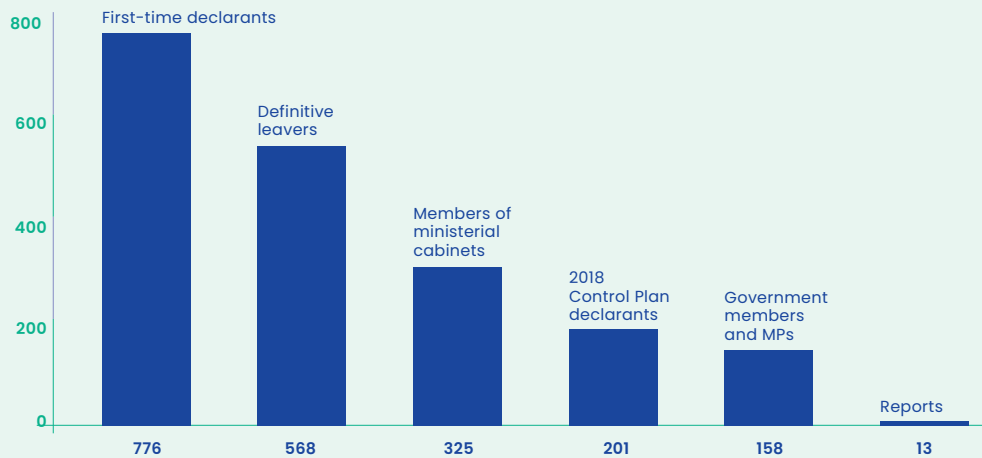
declarations of assets submitted in 2019*

* This figure includes initial and end-of-mandate declarations of assets and amended declarations.

748

examinations of asset variations

Typology of control of declarations of assets completed in 2019



23. See p.116

24. 56 reports proved to be inadmissible, as, for example, they lacked grounds or did not correspond to the High Authority's prerogatives.

25. The 13 controls of declarations of assets closed in 2019 are not necessarily correlated to the 21 case files reopened in 2019 following external reports: A number of these 13 controls closed in 2019 may result from case files that were reopened the previous year. Likewise, it should be borne in mind that some of the 21 reopened case files are still being examined.

An increase in external reports

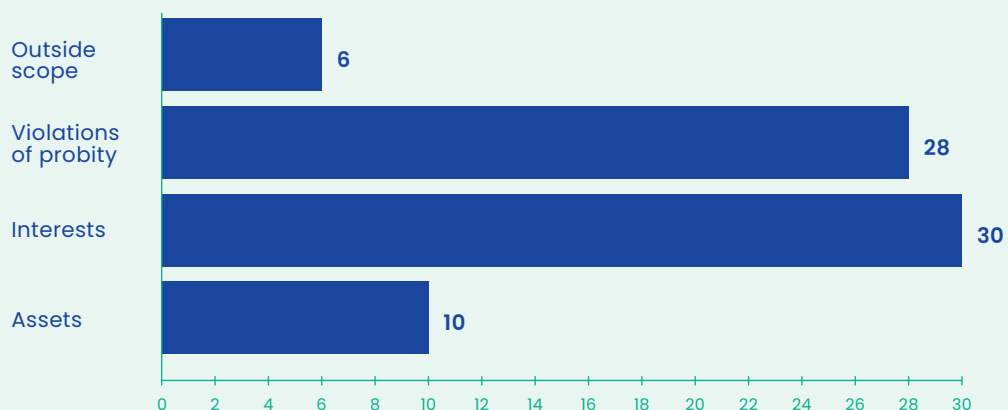
One of the reasons that may lead the High Authority's departments to undertake in-depth controls of certain declarations is the reception of reports that may come from outside its walls (i.e. from citizens, journalists or whistleblowers) or be communicated by accredited associations²³. Each such report is systematically analysed in order to check whether the alleged breaches are proven. 77 reports were received in 2019, 21 of which (27%²⁴) led to the (re)opening of control of a declaration²⁵. More intensive investigations were also carried out at the initiative of the President, Board members and departments, depending on the results of open-source searches (press articles in particular).



74
external reports

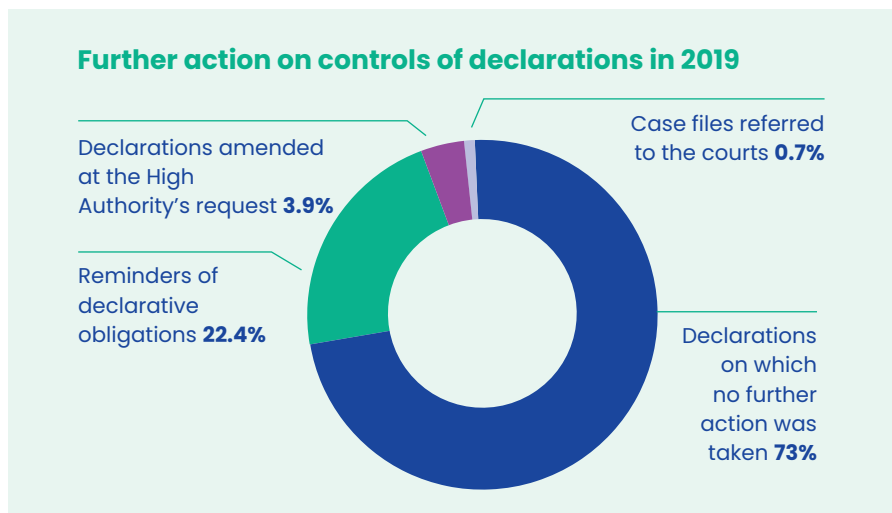
3
reports
from accredited
associations

Typology of breaches alleged by the 74 external reports received in 2019



2.1 Possible follow-ups to control²⁶

26. Control procedures have been presented in detail in previous Activity Reports.



When our departments' examination of a declaration reveals no problems and the Board deems it to be exhaustive, accurate and honest, it acts in accordance with legal provisions in deciding whether to publish it as it stands or take no further action. Of the 3,384 declarations of assets and interests controlled in 2019*, almost 73% were published as they stood or archived with no further action taken.

* Apart from amended declarations.

As regards declarations that are not exhaustive, accurate or honest, when it comes to a declaration that has to be published, the Board may request the public official concerned to submit an amended declaration with a view to rectifying the breaches revealed during the departments' examination of the case file, if it deems that such breaches do not warrant assessment or communication to the Public Prosecutor's Office. 77 amended declarations of interests and 54 amended declarations of assets were requested in 2019.

Generally speaking, over its six years in existence the High Authority has observed a gradual improvement in the **quality of declarations** submitted to it, both in terms of exhaustiveness and accuracy of the information they contain.

Finally, rapporteurs from the three highest courts²⁷ are occasionally called upon to assist the High Authority when a legal difficulty arises or a possible offence is revealed during the examination of a declaration, either upstream by the Institution's departments or by the Board. This procedure concerned 69 cases in 2019. Rapporteurs lend their assistance to the Institution's departments and draw up draft deliberations for the Board's consideration.

27. Council of State, Court of Cassation, Court of Auditors.

Assessment of declarations

The law provides that the High Authority may accompany publication of declarations made public *“with any assessment that it deems useful as to [their] exhaustiveness, accuracy and honesty”*. The High Authority’s Board made use of this procedure twice in 2019.

28. CS, Ass., 19 July 2019,
Ms L..., no.426389

In a Decision of 19 July 2019, the Council of State²⁸ provided for control of pieces of soft legislation issued by independent administrative authorities (*see inset*). The High Authority’s public assessment of the exhaustiveness, accuracy and honesty of a declaration of assets submitted by a parliamentarian was deemed to be an act adversely affecting the individual concerned, liable to appeal before the administrative court.

29. Deliberation no.2018-168
of 24 October 2018

Public assessment of a declaration

Following the legislative elections in 2017, the High Authority controlled a declaration of assets submitted by a new elected Member of Parliament on 24 October 2017. After an in-depth control carried out in collaboration with the tax authorities and followed by exchanges with the declarant, the High Authority concluded²⁹ that the value of a number of real-estate properties she had declared had been underestimated and therefore decided to publish the MP’s declaration of assets and accompany it with an assessment highlighting the *“breaches observed of the requirements of exhaustiveness, accuracy and honesty”* incumbent upon public officials in their declarations. The MP concerned disputed these conclusions and lodged an appeal on the grounds of ultra vires with a view to having the deliberation annulled.

30. Constitutional Council, 9 October
2013, Dec. 2013-675 DC

In its decision, the Council of State ruled that the High Authority’s addition of an assessment to a published declaration was an act adversely affecting the person concerned, subject to control of its legality by the administrative court and liable to action on the grounds of ultra vires. Although such assessment does not in itself constitute a sanction³⁰ and has no legal effect, it is nonetheless *“likely to have significant effects in terms of reputation, which, incidentally, may well have an influence on the behaviour of the people to whom it is addressed, electors in particular”*.

31. CS, Ass., 19 July 2019,
Ms L..., no.426389

However, the Council of State rejected the request bearing on the merits of the case, concluding that *“breaches jeopardising the exhaustive, honest and accurate character of the declaration”* existed.³¹

32. CS, Ass., 21 March 2016, *Société Fairvesta International GMBH et al*, no.368082
33. CS, Ass., 21 March 2016, *Société NC Numericable*, no.390023

This decision complemented administrative jurisprudence relating to pieces of soft legislation enacted by independent administrative authorities. In 2016, in its rulings on *Société Fairvesta International GMBH et al*³² and *Société NC Numericable*³³, the Council of State had acknowledged for the first time the admissibility of appeals on the grounds of ultra vires regarding administrative acts issued

by independent administrative authorities.

However, there are no legal provisions regarding assessments of declarations that are not published, which may nonetheless contain serious breaches without warranting their being referred to the Public Prosecutor's Office. The High Authority therefore reminded the public official in question of her legal obligations, notifying her of the breaches observed, the legal framework and declarative obligations that she is required to comply with. This procedure was made use of 133 times in 2019.

In addition to the criminal penalties already provided for with regard to non-submission of declarations, major omissions and false valuation, an administrative penalty system, largely consisting of fines, could well be organised under the law, governed by a framework defined by the Constitutional Council³⁴ and under the aegis of the courts, in order to enable the High Authority to implement appropriate graduated responses to the various breaches observed. This recommendation goes alongside the observations made in the section on interest representatives³⁵.

34. Constitutional Council, 17 January 1989, Dec. 88-248 DC, *Freedom of communication*

35. See p.105

The case of Italy

In Italy, public officials subject to an obligation of declaration of assets risk being fined between 500 and 10,000 euros in the event of non-submission of declarations or provision of false information³⁶. Such penalties, applied by the National Anticorruption Authority (Autorità Nazionale Anticorruzione, ANAC), are published on its website.

36. Article 47 of the Legislative Decree of 14 March 2013, no33

This monetary sanction procedure has been applied 133 times since 2015. With respect to penalties for non-submission of declarations and communication of false information and penalties for noncompliance with triennial anticorruption plans, triennial transparency programmes or codes of conduct³⁷, the ANAC collected €64,000 in fines in 2018 and €35,000 in fines in 2019.

37. Article 19, comma 6, of the Legislative Decree of 24 June 2014

PROPOSAL NO.2

PROVIDE THE HIGH AUTHORITY WITH A POWER OF ADMINISTRATIVE SANCTION
FOR CERTAIN BREACHES OF DECLARATIVE AND ETHICAL OBLIGATIONS.

38. Articles 432-10 to 432-16 of the Criminal Code

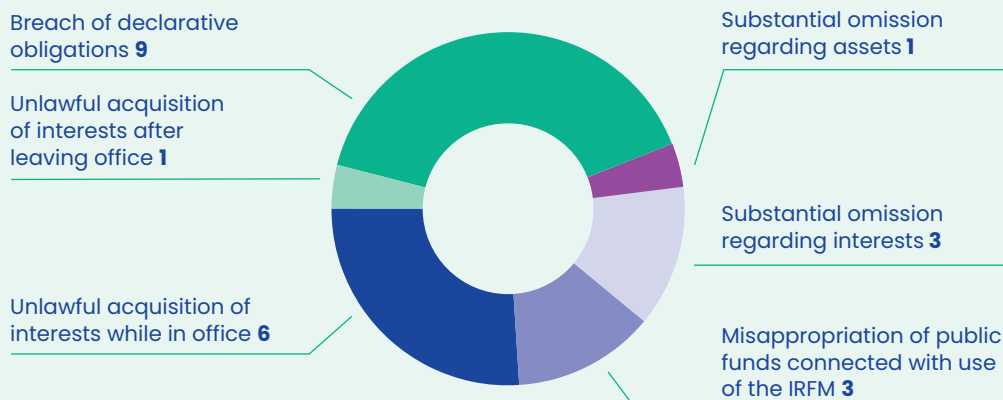


102 case files referred to the courts since 2014, including **23** in 2019

Referral of cases to the courts

In 2019, a total of 23 cases were referred to the Public Prosecutor following detection of specific offences under the Acts of 11 October 2013 (non-declaration and substantial omission) and violations of probity³⁸ (unlawful acquisition of interests, misappropriation of public funds, etc.), to which Article 40 of the Criminal Procedure Code applies. The High Authority has referred cases to the courts 102 times since 2014, 27 times for non-submission of declarations and 75 for potential violations of probity and substantial declarative omissions, resulting in 12 convictions.

Reasons for referring 23 case files to the courts in 2019

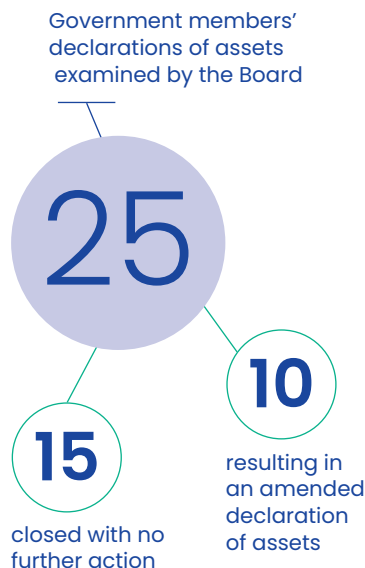


2.2 Focus on control of certain public officials' assets

Reinforced control of Government members' assets

In 2019, 15 declarations of assets, 6 at start of term of office and 9 amended; were submitted by members of the Government. They were automatically subjected to in-depth controls, given the importance of the duties involved and the fact that they were to be published on the High Authority's website.

25 asset control files concerning Government members were examined by the High Authority's Board in 2019, 13 of which concerned declarations submitted in 2018. Following these controls, 10 ministers had to submit amended declarations of assets in order to provide further details on their contents or rectify errors. A rapporteur is systematically appointed for incoming members of the Government.



As it stands, declarations of assets at start of service and amended declarations submitted in 2019 are always controlled.

The second aspect of the High Authority's mission as regards members of the Government is supervision of the check on their tax situations carried out by the DGFIP.

In 2019, 13 case files were closed, 4 of which concerned ministers who had entered the Government during the year. Two controls were still underway when this Report was being written. 8 controls resulted in rectifications having to be made, with penalties imposed (default interest and any eventual increments) never exceeding 300 euros. No cases resulted in refunds by the tax authorities.

If, when carrying out such controls, the High Authority found that a member of the Government had not complied with their tax obligations, it would inform the President of the Republic and Prime Minister of the fact, without prejudice to implementation of the tax authorities' prerogatives. However, this situation did not arise in 2019.

Continued controls on abused use of the IRFM

The High Authority continued with the controls it undertook in 2018 on MPs' use of the indemnité représentative de frais de mandat (IRFM – Parliamentary Expense Allowance), based on declarations of assets at end of term of office drawn up by Members of Parliament of the 14th legislature (2012–2017) and Series 1 Senators (2011–2017)³⁹.

In the context of controls of variations of assets and examinations of bank statements, the High Authority had found that a number of MPs had made irregular or even unlawful use of their IRFMs, subsequent to the oversight measures taken by the two Assemblies in 2015. Such misuse related to personal expenditures, campaign expenses, contributions to political parties and direct transfers to personal bank accounts. The National Prosecutor's Office for Financial Matters launched preliminary investigations concerning fifteen case files referred to the courts by the High Authority in 2018.

In 2019, in-depth investigations concerning three MPs and undertaken following the communication of various pieces of information led to discovery of dealings likely to be characterised (subject to the assessment of a criminal court) as misappropriation of public funds. Pursuant to Article 40 of the Criminal Procedure Code, the three case files were sent to the Public Prosecutor.



39. See Activity Report 2018 p.33. As a reminder, a system of advances on parliamentary expenses replaced the IRFM on 1 January 2018, with the legislature entrusting National Assembly and Senate departments with setting totals for and applying this new regime.

3. Providing advice and raising awareness among public officials

3.1 Update of the declarant's guide

40. <https://bit.ly/36Xuvgh>

The declarant's guide, which is available online on the High Authority's website⁴⁰, is designed to assist public officials at each stage of their declarations of assets and interests, so enabling them to better meet their obligations. The guide is regularly updated in order to take account of problems noted in declarations, and legal and regulatory changes. Three updates were made in 2019, concerning:

- the system for publication of declarations of assets and interests submitted by MEPs of the 9th legislature elected on 26 May 2019;
- addition of details on identification of trainee parliamentary assistants: although all assistants must be declared, whether they work in Paris or in constituencies, these provisions do not apply to trainees whose total duration of internship is no longer than six months;
- declaration of life insurance policies and retirement savings plans, following the changes made by the "PACTE" Law⁴¹ (see *inset*).

41. Act no.2019-486 of 22 May 2019 bearing on business growth and transformation

The “PACTE” Law’s effect on retirement savings and public officials’ declarative obligations

Local elected officials are entitled to benefit from the complementary retirement plan introduced on behalf of public authorities’ non-permanent staff. They may also benefit from an optional funded special supplementary retirement mechanism. Two mechanisms were created to this effect in the early 1990s: the Fonds de pension des élus locaux (FONPEL – Pension Fund for Local Elected Officials) and the Caisse autonome de retraite des élus locaux (CAREL – Independent Pension Fund for Local Elected Officials).

The Act of 22 May 2019, the so-called “PACTE” law, brought far-reaching changes to the retirement savings regime by effectively creating a new Plan d’Epargne Retraite (PER – Retirement Savings Plan) divided into three products: an individual PER and two collective PERs, themselves divided into three compartments depending on types of payment. Apart from the modifications brought about by the PER’s tax regime, the new system is also characterised by facilitated transfer of existing contracts to the new PER and greater flexibility of exit conditions, in lump sums or annuities.

However, no provision was made for application of the new measures to individual contracts under CAREL and FONPEL, which do not include redemption possibilities.

Although, consequent to the PACTE Law and its implementing texts, not all retirement savings plans are still subject to strictly identical legal and fiscal regimes, the High Authority, in its Deliberation of 23 October 2019⁴², deemed that it was nonetheless necessary to ensure the clarity of the declarative mechanism with regard to assets and interests, equality of treatment of declarants, and the exhaustive character of assets declared.

Consequently, all retirement savings products, whether stemming from the new PER regime or earlier systems; and whether they are paid off in the form of lump sums or annuities, must be included in declarations of assets, under Heading no.5, “Life Insurance Policies”.

Hence, as from the date of the Deliberation, public officials with such contracts must submit amended declarations of assets if they redeem their policies in cash pay-outs. Such redemption may be characterised as a substantial modification of assets. Whatever the case, contracts must now be made mention of in end-of-service declarations of assets.

42. Deliberation no.2019-99 of 23 October 2019



1,151

Calls received
on the public
officials' helpline

43. Contact details are available
on the High Authority's website.
See <https://bit.ly/2SGgmQy>

3.2 Lending support to public officials

With a view to providing public officials with better support and answer any questions they might raise, whether relating to their obligations, individual situations or how to make their declarations via the "ADEL" teleservice, the High Authority has introduced a number of tools for communication and exchange.

Most importantly, they now have a dedicated helpline, on which 1,151 calls were received in 2019. Declarants can also exchange with the High Authority's departments by email⁴³.

And lastly, the High Authority has been giving thought to how best to assess the quality of the assistance provided to public officials and interest representatives. Satisfaction surveys on the "ADEL" and "GORA" online declaration systems are currently being developed and should enable better identification of improvements likely to add to the quality of services delivered by the High Authority.

3.3 Publication of new information leaflets

In 2019, the High Authority continued to focus on education of and awareness-raising among public officials on their declarative obligations. Information leaflets were published intended for CEOs and directors of local publically owned companies, members of ministerial cabinets, and public officials. They are available online on the High Authority's website.

4. Publication of public officials' declarations of assets and interests

4.1 A dual publication system

The methods for publication of certain public officials' declarations of assets and interests are governed by law: members of the Government, parliamentarians, French representatives at the European Parliament and executive bodies in the largest local authorities⁴⁴. Declarations submitted by members of the High Authority's Board are also available online on the High Authority's website.

⁴⁴. The full list of local public officials concerned is available in 2° of I of Article 11 of the Act of 11 October 2013.

Public officials	Declaration of assets	Declaration of interests
Members of the Government	On the High Authority's website	
MPs and Senators	In prefectures	On the High Authority's website
French representatives at the European Parliament		
Local executive bodies	Not public	On the High Authority's website
Members of the High Authority's Board	On the High Authority's website	
Other declarants	Not public	



2,395
declarations
published

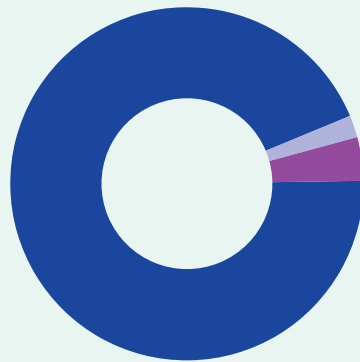
45. See the High Authority's press release on this publication: <https://bit.ly/3dwYwlb>

In 2019, 2,395 declarations were published in *open data* on the High Authority's website; 94% of them were initial or amended declarations of interests.

Declarations of assets and interests submitted by 73 French representatives at the European Parliament of the 9th legislature were published simultaneously on 7 November 2019⁴⁵. Although Government members' declarations of assets are published in a single batch, declarations of assets submitted by members of Parliamentary Assemblies are published by départemental batches, so enabling reconciliation between compliance with publication timeframes and equality of treatment of public officials.

In compliance with the High Authority's mission of transparency, initial declarations of interests submitted by public officials may be published as they stand, although confidential dialogue may previously have been undertaken regarding information declared or possible omissions. If necessary, the High Authority follows up on its investigations by requesting an amended declaration or referring to the Public Prosecutor.

Declarations published in 2019



Declarations of assets
on the website **37**

Declarations of assets
in prefectures **100**

Declarations of interests
on the website **2,258**

The question of publication of declarations of public officials who only held office for a short time

In 2019, the Commission for Access to Administrative Documents (CADA) received two requests for opinions on communication of declarations of assets by former Government members who had held office for relatively short periods, and which had not been published on the High Authority's website.

- *Reminder of legal and regulatory provisions*

Pursuant to the provisions of the Act of 11 October 2013, all Government members must submit a declaration of assets to the High Authority within the two months following their nomination and within the two months following the end of their term of office. These declarations are then communicated to the tax authorities, which, within the thirty days following such communication, provide all the documents enabling the High Authority to assess their exhaustiveness, accuracy and honesty. Within three months of receipt of such information, necessary to examination of information and any eventual exchanges with declarants, the High Authority must publish the declarations of assets and interests concerned.

These declarations must also be available to the public throughout the term of office in respect of which they were submitted. As regards declarations submitted after end of service, they remain accessible for six months after the term of office has come to an end.

- *Processing of publications by the High Authority*

With a view to reconciling the goal of transparency with that of ensuring the exhaustiveness and accuracy of information made available to the public, declarations of assets are not published immediately after reception.

Moreover, in view of the various timeframes referred to above, a maximum of six months may go by between the date on which a Government member is nominated and the publication of their declaration. In addition, in order to ensure consistency and equality of treatment, Government members' declarations of assets are made public on the same date whenever a whole new Government is nominated.

- *Special case of ministers who only held office for a short time*

All the ministers requested to communicate declarations of assets only remained in office for a short time, between one and four months at the most. Hence, application of processing timeframes did not enable publication of their declarations. Furthermore, insofar as no end-of-mandate declaration is required when a declaration of assets has been submitted less than a year previously, such end-of-mandate declarations were not published.

Lastly, whatever the case, as the six-month period following the date of end of service had already come to an end at the time of referrals for all the ministers concerned, the declarations in question were regarded as among those whose publication is not provided for by law, i.e. as documents only to be communicated to interested parties, pursuant to Article L. 311-6 of the Code of Relations between the Public and the Administration.

4.2 The question of publication of MPs' declarations of assets in prefectures

Unlike declarations of assets submitted by ministers, those submitted by parliamentarians and French representatives at the European Parliament are not published on the High Authority's website, but may be consulted in prefectures.

Once again, the High Authority noted that there were very few requests for consultations in prefectures, only 18 in 2019, a number which may be put down to the excessively burdensome and dissuasive system implemented by the legislature.

Citizens on the electoral roll must first of all make an appointment, during opening hours, with the departments of the prefecture concerned, in order to consult declarations of assets submitted by their constituencies' MPs, with a department staff member present⁴⁶. No reproduction or copy of the items consulted may be made – no notes may be taken, for example. In addition, any divulgation by a natural or legal person of information contained in declarations of assets, including via the press, is liable to a fine of 45.000 euros.

This being so, the procedure for consultation of MPs' declarations of assets in prefectures is actually not very effective in practice. In this respect, the observation made by the High Authority in its Activity Report for 2018 is still very much relevant⁴⁷. Relatively speaking, comparison with data on consultation of declarations online⁴⁸ shows that the goals of reinforcing transparency

46. Order of 28 May 2014 setting methods for electors' consultation of the parts of MPs' declarations of assets defined in Article LO 135-2 of the Electoral Code



18

requests for consultation of declarations of assets in prefectures in 2019, concerning **87** parliamentarians in **17** départements



161*

MPs' declarations of assets actually consulted in prefectures in 2019

* Individuals making such requests consulted several declarations by different MPs.

and accessibility of information for citizens have not been met. In 2013, the Constitutional Council had observed that the publication of declarations of interests should enable *“all citizens to satisfy themselves that the guarantees of such elected officials’ probity and integrity, and of prevention and countering of conflicts of interest are implemented⁴⁹”*, a line of reasoning that could well be extended to MPs’ declarations of assets, in view of their prerogatives. As the High Authority has emphasised for several years in its successive reports, the publication on its website of declarations of assets submitted by MPs, Senators and French representatives at the European Parliament would constitute a significant step forward, without disregarding the principle of separation of powers and fully in line with the recommendations of international organisations.

Hence, in its Second Compliance Report on France at the 4th evaluation round, “Prevention of corruption in respect of members of parliament, judges and prosecutors”, adopted on 22 June 2018, the Group of States against Corruption (GRECO) regretted *“that again no measure has been taken”* to make MPs’ and Senators’ declarations of assets more easily accessible to the public as a whole, *“a major transparency measure to relieve the current discredit of politicians”*.

47. *“The current procedure in France drastically reduces the effect of publication of declarations of assets, only partly meets the goal of probity required of Members of Parliament and is particularly unsatisfactory.”*, Activity Report 2018. See <https://bit.ly/2yASwyQ>

48. See p.122 of the Report.

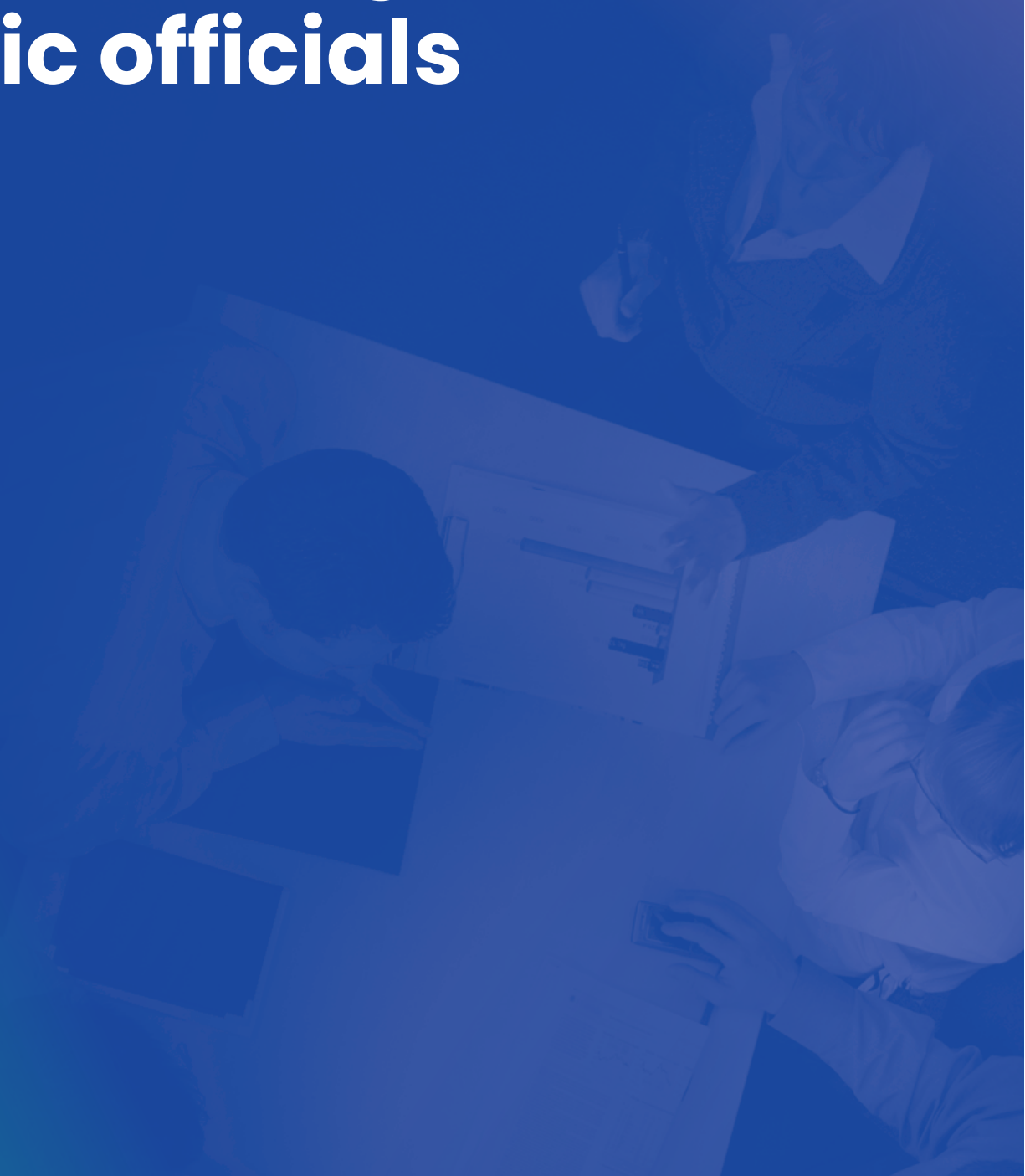
49. Constitutional Council, 9 October 2013, Dec. 2013-676 DC

PROPOSAL NO.3

PUBLISH DECLARATIONS OF ASSETS SUBMITTED BY MEMBERS OF PARLIAMENT, SENATORS AND FRENCH REPRESENTATIVES AT THE EUROPEAN PARLIAMENT ON THE HIGH AUTHORITY’S WEBSITE.

Part III

Preventing conflicts of interest and assisting public officials



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The Acts of 11 October 2013 bearing on transparency in public life inaugurated an overall movement reinforcing legislation on prevention and suppression of violations of public probity, adopting a definition of conflict of interests for the first time. They also introduced new legal tools promoting ethics, obliging public officials to declare their interests alongside their declarations of assets.

The proliferation of standards pertaining to ethics and prevention of conflicts of interest may be a source of difficulties for public officials subject to such obligations, as well as for the bodies that have to apply them. Ethical reflexes are by no means innate, and education and awareness-raising are required in order to impose them in lasting fashion, with the goal of raising questions and instilling a new, ethical mindset. In 2019, the High Authority was once again fully committed to this dynamic, providing assistance to public officials throughout their terms of office and during their professional transitions to the private sector.

1. Reinforcement of control and prevention of conflicts of interest

1.1 Examination of declarations of interests posing conflict of interest risks

Detection of conflicts of interest

The declaration of interests is a key tool for detection of conflicts of interest. It is a means of formalising and institutionalising reflection on ethics in order to determine situations in which preventive measures need to be considered. 2,290 declarations of interests were submitted to the High Authority in 2019.

Within two months as from their election or nomination, the public officials concerned must submit a declaration of interests containing the following information:



- **Remunerated or rewarded professional activities** as well as **consultancy activities** engaged in at the date of nomination and during the last five years
- **Professional activities** engaged in by the **spouse**

- **Participations in public or private institutions'** or companies' governing bodies



- **Direct financial participation** in a company's capital

- **Voluntary activities** likely to give rise to a conflict of interest



- **Elective functions and mandates** exercised at the date of nomination

3 extra categories for parliamentarians

- **Activities they wish to continue with** during their term of office
- **Financial participations** in the capital of a **consultancy firm**
- A list of their **employees and any ancillary professional activities** they engage in, as the case may be



Throughout their time in office, public officials are also obliged to declare any substantial modification of their interests, by submitting a new declaration. In 2019, 676 amended declarations of interests were examined by the High Authority's departments.



2019

**declarations of interests
controlled**

- **1,343** start-of-service declarations
 - **676** amended declarations
- including **189 (9.3%)** declarations presenting conflict of interest risks and submitted to in-depth examination

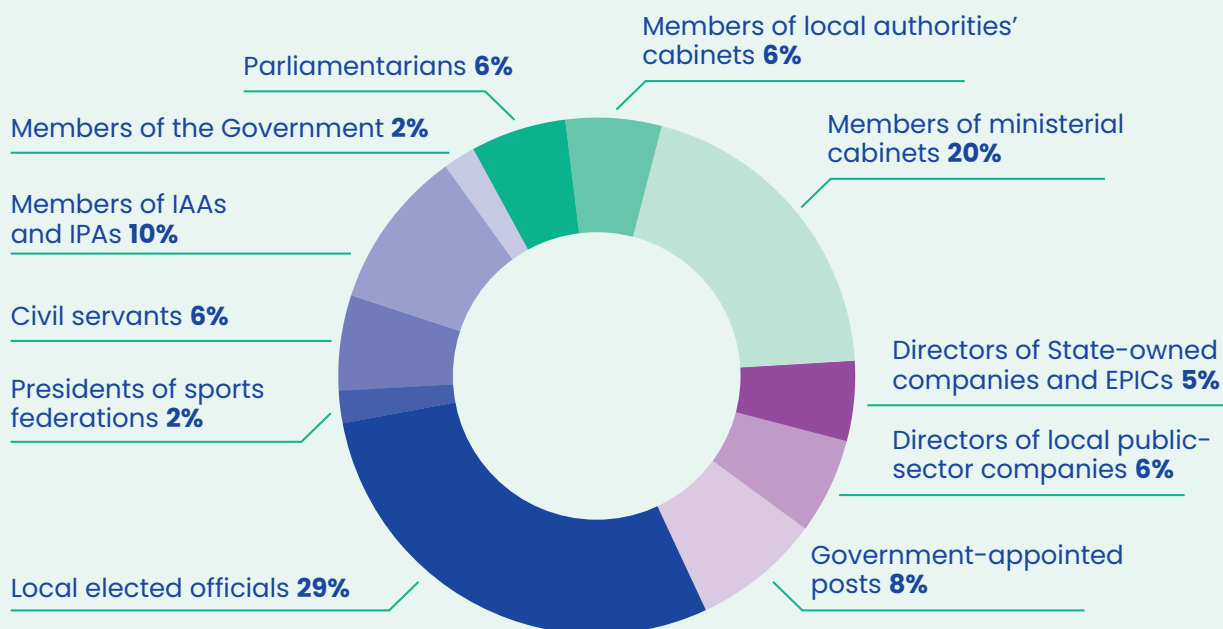


2,290

**declarations of interests
submitted in 2019***

* This figure includes start-of-service declarations of interests and amended declarations of interests.

1,343 start-of-service declarations of interests controlled in 2019



Declarations of interests are examined as they are submitted, in accordance with a workflow rationale. 2,019 declarations in all were controlled in 2019, with a high proportion of local elected officials (29%) and ministerial advisors (20%). The disparity with the 2,290 declarations actually submitted by public officials is due to some controls still being underway (waiting for information from declarants, for example).

Controls have a dual goal:

- assessment of the exhaustive, accurate and honest character of the declarations received, through detection of possible substantial omissions;
- detection of potential conflict of interest situations and implementation of measures to prevent them, as had to be done with regard to 189 declarations of interests in 2019;

If examination of a declaration of interests leads to detection of a conflict of interest situation, the High Authority has a number of levers of action available to it. First of all, in compliance with the adversarial principle, the High Authority may contact the declarant at each stage of the control, requesting further details on the information contained in their declaration, or supporting documents. Such dialogue enables the High Authority to recommend appropriate solutions to prevent or put a stop to a conflict of interests.

If such exchanges are unproductive, the High Authority possesses a power of injunction and can order the public official concerned to put a stop to a conflict of interests. The injunction may be published and the official's disregard of it is liable to criminal sanction. No situations of this kind arose in 2019, clear evidence of public officials' ongoing cooperation vis-à-vis the High Authority's recommendations.

Implementation of precautionary measures

The main mechanisms for prevention of conflicts of interest are publication of the interest in question, recusal from decision-making, and renunciation of the interest. Such graduated measures are proposed following close examination of a public official's situation, with a view to adapting them to the nature of the interest, level of interference and the entity in which their public offices are performed. For certain categories of public officials, the law already provides for precautionary measures to be implemented in the event of a conflict of interests. A summary table is appended to this Report⁵⁰.

50. See Appendix 3 p.136

Hence, internal publication measures may be taken. These simply consist of informing the official's immediate superior, colleagues, or other members of the deliberative assembly if an elected official is concerned, of the interest held and the risk of interference.

Recusal is the precautionary measure most often recommended by the High Authority. As far as public officials are concerned, it consists of not taking a decision that they would normally be competent to take, and of not preparing or delivering an opinion on such a decision. If the public official is a member of a deliberative assembly, recusal consists of not participating in voting or in discussions prior to a decision being taken.

Identification of the object or material at the origin of the conflict of interest



Organisation of the recusal procedure:

- delegation of decision and signature
- prior publication of the recusal so as not to be informed of factors relating to decisions to be made
- no participation in preparatory meetings
- leaving the room when the decision is to be taken



Setup of a register of recusals (public or otherwise) as an operational tool for identification

This is the case, for example, for members of the Government who, following the High Authority's examination of their declarations of interests and if a conflict of interest is revealed, must recuse themselves from all acts relating to a given field of activity, geographical sector, company or association. A Decree is then published in the *Official Journal*, specifying the scope of application and delegation measures enabling a third party to perform the duties excluded from the minister's sphere of competence; this was the case for 6 ministers in 2019. A

"Conflict of interest prevention register", available online⁵¹, lists all recusal measures taken by Government members in conflict of interest situations.

Lastly, in cases of major interference, a public official may be asked to renounce the interest in question, by giving up an honorary position, for example.

The procedure is different for parliamentarians, as the High Authority has more limited powers in the control of their declarations of interests and activities. It cannot send an MP or Senator an injunction relating to their interests. It is each Assembly's Bureau, assisted by the Senate's or National Assembly's Ethics Committee, which is competent to implement measures designed to prevent or put an end to a conflict of interest.

1.2 Initial work on risk mapping

Risk mapping originated in compliance procedures adopted by private companies, in particular in the banking and insurance sectors, consisting of development of mechanisms ensuring an entity's concrete implementation of compliance with the rules in force.

Adapted to the field of ethics in the public sector, risk mapping aims to secure decisions and reveal the risks to which each entity is specifically exposed. It seeks to identify these various types of risks (operational, financial, legal, reputational, etc.) and assess the likelihood of a risk arising and its seriousness, so enabling prioritisation of actions to be taken in order to come into compliance with the regulations in force.

51. <https://bit.ly/38RKfms>

In October 2018, the High Authority undertook initial in-house work on risk mapping, with a view to identification, assessment, prioritisation and management of conflict of interest risks inherent to the duties of public officials subject to declarative obligations. The project aimed in particular to:

- develop better knowledge of conflict of interest risks attached to various public offices;
- make risk mapping a tool for organisational management and planning, especially as regards examination of declarations of interests;
- improve effectiveness of control of declarations of interests.

1.3 A specific doctrine with regard to public-public conflicts of interest

Article 2 of the Act of 11 October 2013 on transparency in public life provided a definition of conflict of interest for the first time, as *“any situation of interference between a public interest and public or private interests that is likely to influence or appear to influence the independent, impartial and objective performance of the duties of office”*. The scenario of a conflict of two public interests is specific to France, make it all the more difficult to assess such situations.

In 2019, as it was having to deal with increasing numbers of cases of public-public conflicts of interest and was regularly questioned on the subject by ethics officers, the High Authority decided to act on this complex legal question ex officio by specifying its doctrine⁵².

Public interests concerned

The legislature’s initial intention was to take combinations of local and national elective offices into consideration, a situation that has become less common since the Acts of 14 February 2014⁵³, which prohibit parliamentarians and French representatives at the European Parliament from serving as mayors, presidents or vice-presidents of départements, regions, Public Establishments for Intermunicipal Cooperation (EPCIs) or joint associations of local authorities during their terms of office .

The public interests coming under the definition of conflict of interest may therefore be held directly by a public official, in the event of an authorised combination of elective offices, or a combination of activities on behalf of different public institutions. A public interest may take several forms; including a professional activity or participation in the governing bodies of a public

52. Public-public conflicts of interest will be given more detailed treatment in the guide on conflicts of interest published by the High Authority in 2020. See p.81

53. Organic Law no.2014-125 of 14 February 2014 prohibiting combinations of local executive functions with mandates as MPs or Senators, and Act no.2014-126 prohibiting combinations of local executive functions with mandates as representatives at the European Parliament

institution, such as being the chairperson or member of a public establishment's or joint association's board of directors, or of a public board.

Incorporation of conflicts between public interests gives rise to a number of difficulties, as combination of activities and mandates is a common practice, especially at local level. Hence, participation in certain public institutions' governing bodies often results from a public official's appointment to a position in such institutions due to their holding an elective office.

Combination of public offices

As stated above, certain combinations of mandates are expressly prohibited by law, due to the difficulties of reconciling the various interests attached to the high-level offices in question. Apart from such incompatibilities, combinations of public offices are possible, although they are still likely to give rise to conflicts of interest. The assessment's main purpose is to ascertain whether decisions promoted by a public official in fulfilment of their public service mission concern the general interest or another, possibly personal interest.

Participation in a decision that may be viewed as directly or indirectly interfering with a public official's personal, material or moral interest carries major criminal and ethical risks. This being so, a public official cannot participate in a deliberation on their election or appointment to a position in an administrative public establishment (EPA), public body with industrial and commercial functions (EPIC) or other public institution, which would also determine their remuneration conditions.

The question of semi-public companies

The General Local Authorities Code provides that, in semi-public companies whose shareholders are local authorities or groups of local authorities, these latter have the right *"to at least one representative on the Board of Directors or Supervisory Board⁵⁴"*. Such representatives, who are usually local authority elected officials, *"are not regarded as having an interest in the outcome within the meaning of Article L. 2131-11, when the local authority or group deliberates on relations with the local semi-public company"*.

This provision does not exempt such elected officials from their criminal liability; Although the deliberation is not itself unlawful, the elected official concerned still runs the risk of being sanctioned.

54. Article L. 1524-5 of the General Local Authorities Code

The High Authority therefore recommends that, in such situations, local elected officials recuse themselves from any decisions bearing on semi-public companies of which they are administrators as representatives of shareholding local authorities, in particular decisions appointing them as representatives and/or setting their salaries, or granting subsidies and contracts likely to be concluded with the semi-public company in question.

1.4 Control of financial instruments

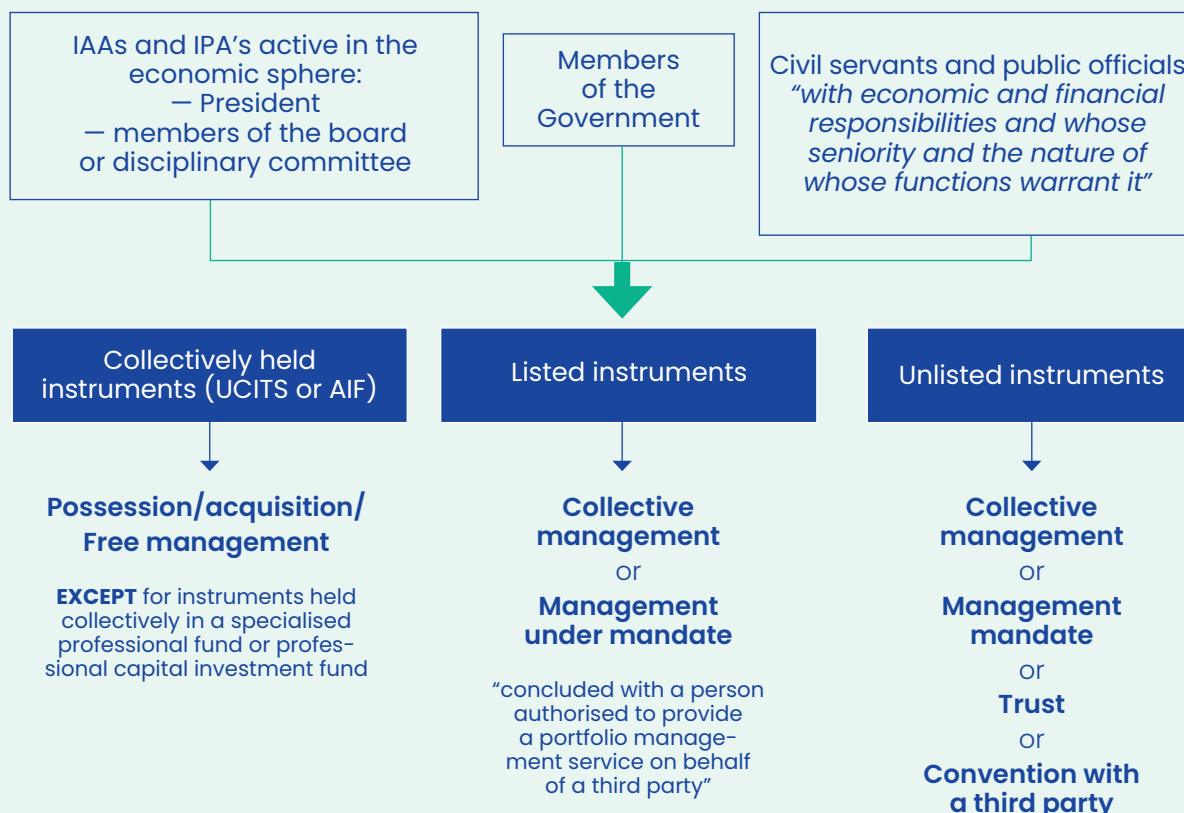
Applicable provisions

Government members and members of independent administrative and public authorities active in the economic sphere, along with certain public officials holding civilian and military posts are subject to an obligation of management of the financial instruments they hold *“under conditions excluding any right of scrutiny on their part during the whole of their term of office”* (see summary diagram below).

This obligation, which concerned just over 200 public officials in 2019, aims first and foremost to prevent risks of insider trading, and, more generally, of seeing public officials use privileged information they have knowledge of due to their positions to their own personal advantage, by selling or purchasing financial instruments. The possession, acquisition or management of financial instruments may also lead to characterisation of a conflict of interest or conflict of interest risk, insofar as the securities held reveal a special interest distinct from the general interest that a public official is supposed to uphold.

Public officials subject to this obligation must then show the High Authority proof of the measures they have taken, via the “ADEL” teleservice. A “questionnaire for management of financial instruments” enables definition of appropriate methods for management of each instrument and provision of corresponding proofs.

Modes of management without right of scrutiny of financial instruments



55. II of Article 2; Article 3-1 to 3-3 of Decree no.2014-747 of 1 July 2014 bearing on management of financial instruments held by members of the Government and Presidents and members of independent administrative authorities and independent public authorities active in the economic sphere

“Preservation of financial instruments as they stand” is a mode of management without right of scrutiny in certain circumstances⁵⁵. It is applicable to the situations of members of independent administrative and public authorities who hold financial instruments:

- not included in the authority’s scope of regulation;
- necessary to the professional activities of qualified individuals with a part-time mandate and carrying out a professional activity subordinated by law to the holding of shares in a company.

This mode of management without right of scrutiny is not open to Government members, however.

All officials subject to the obligation may also preserve financial instruments unchanged if they are necessary:

- to their spouse’s professional activity (whether legally married or in a common-law relationship);
- to enjoyment of an advantage provided for by law.

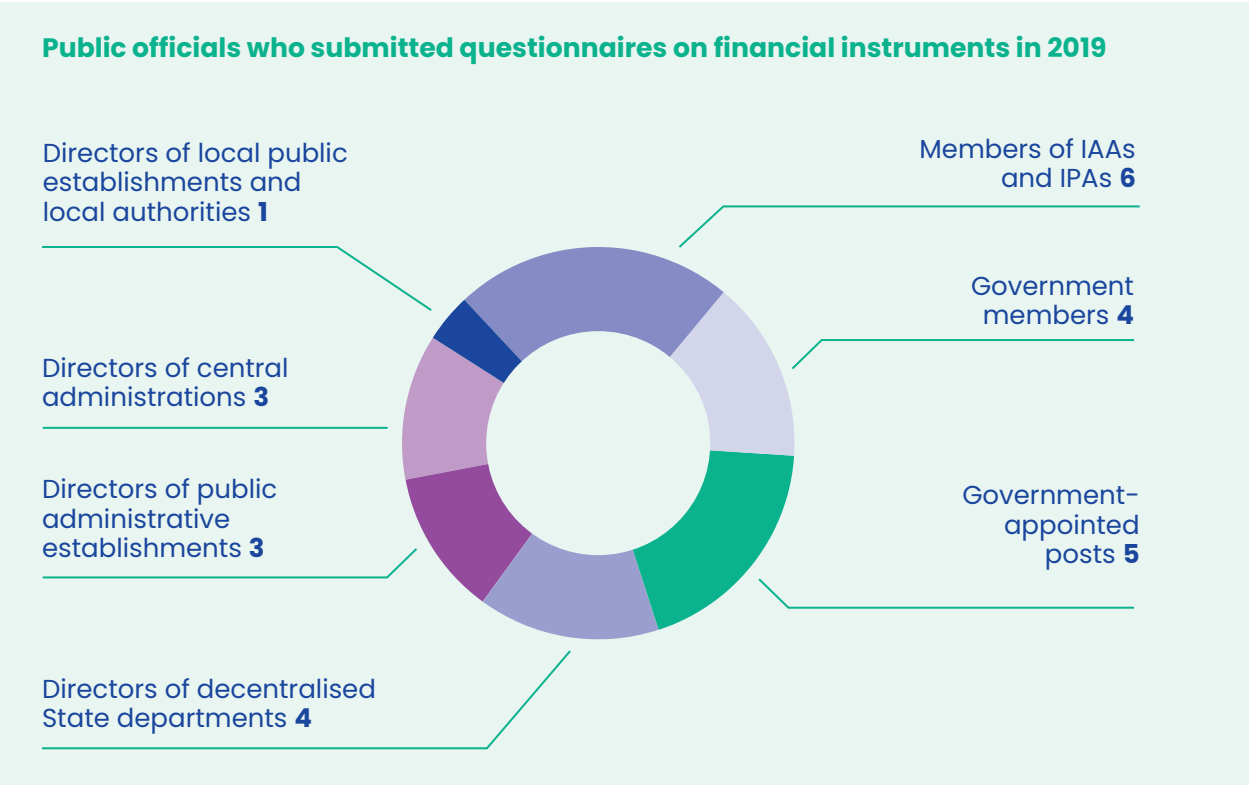
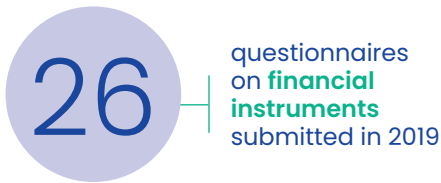
Management of financial instruments held by members of the armed forces

Decree no.2019-1285 of 3 December 2019 specifies the military occupations subject to the obligation of relinquishing all rights of scrutiny (i.e. to the possibility of individual control), as regards management of financial instruments held throughout the term of service. The following are now concerned:

- the Chief of Staff of the Armed Forces;
- Government Commissioners appointed to companies holding contracts relating to military equipment.

Review of controls in 2019

After an identification and awareness-raising campaign in 2018, essentially focusing on members of independent authorities and public officials, the High Authority received 26 questionnaires relating to financial instruments in 2019.



Most public officials are in compliance with their obligations, even though they are still not well enough known by public servants. Nonetheless, the High Authority regrets that a number of individuals subject to these obligations do not respond to requests to put themselves in compliance, some of them having received but not replied to more than one letter asking for further details of their situations. The absence of any legal provisions on response deadlines or penalties for noncompliance with the obligation of management without right of scrutiny gives the High Authority less room for manoeuvre. In such cases, in which reminders produce no response, the High Authority can decide to contact the interested party's superior, i.e. the Prime Minister or Minister to whom they are attached, the President of the independent authority, or their immediate superior.

Difficulties in applying the current mechanism

For rated instruments coming within an independent authority's scope of regulation, and for all rated instruments held by Government members, civil servants and public officials with economic and financial responsibilities, only a management mandate and collective management fulfil the obligation of management excluding right of scrutiny. In practice, however, there are a number of difficulties in concluding a management mandate.

The first concerns low-value financial instruments, a case met with among several members of the Government, in particular in 2019. Holders of such securities may come up against the policy implemented by a good many banks, setting a sum below which they refuse to provide such a service⁵⁶. Even when this option is possible, the cost of concluding a management mandate may be dissuasive, even prohibitive, given the low value of the instruments held.

Extension of the principle of unchanged conservation to members of the Government, limited by a maximum threshold defined by law and beyond which they would have to use another alternative, would help remedy these cases in point. Likewise, the law could provide individuals subject to such obligation with the means to transfer their financial instruments.

These two avenues for change could be usefully accompanied by creation of an obligation for the public officials concerned to notify the High Authority of the option selected as to the mode of management of their financial instruments excluding right to scrutiny, setting a mandatory short deadline for so doing – possibly the same as the two-month period following date of nomination applied to submission of declarations of assets and interests.

⁵⁶. Sums in question vary, from between 10,000 to 100,000 euros.

PROPOSAL NO.4

CHANGE THE LEGAL FRAMEWORK GOVERNING CONTROL OF FINANCIAL INSTRUMENTS
APPLICABLE TO CERTAIN PUBLIC OFFICIALS SO AS TO ENABLE:

- EITHER PRESERVATION OF FINANCIAL INSTRUMENTS UNCHANGED
FOR GOVERNMENT MEMBERS, BELOW A SPECIFIED THRESHOLD;
- OR TRANSFER OF FINANCIAL INSTRUMENTS AFTER THEIR NOMINATION

ACCOMPANIED BY AN OBLIGATION TO NOTIFY THE HIGH AUTHORITY, WITHIN A MANDATORY PERIOD,
OF THE OPTION SELECTED AS TO CHOICE OF MANAGEMENT MODE EXCLUDING RIGHT OF SCRUTINY.

2. Appropriate personalised ethical Support to public officials and institutions

2.1 Advice on ethics for public officials and institutions

Review of requests for advice on ethics in 2019

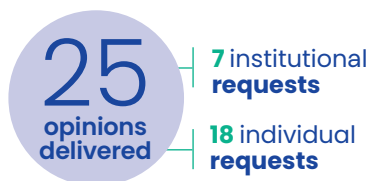
The declarative obligations incumbent upon some 15,000 elected officials and employees and which ensure that they carry out their public missions with integrity, at the service of the general interest, are compensated by the availability of concrete operational advice on ethical questions in the face of any difficulties that may arise in the performance of their missions.

57. Article 20 of Act no.2013-907 of 11 October 2013 on transparency in public life

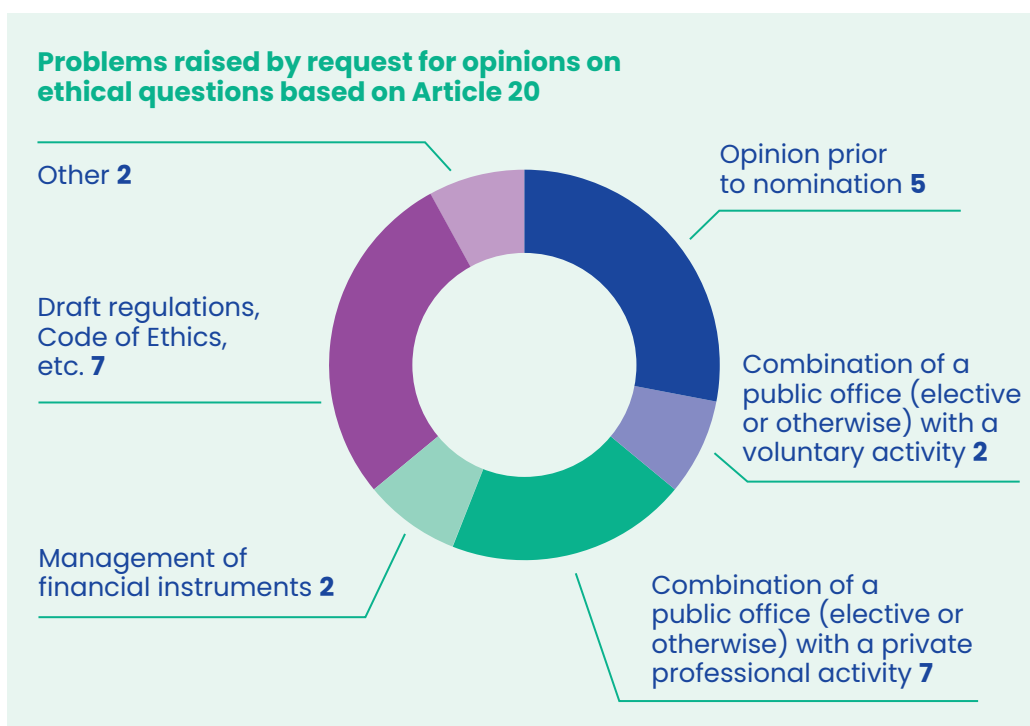
Hence, anyone performing duties that require them to declare their assets and/or interests to the High Authority may refer to it for confidential opinions *“on questions of ethics that arise in the performance of their mandates or offices”*⁵⁷. By providing opportunities to remind elected representatives and public officials of their general ethical obligations, such opinions contribute to dissemination of a culture of integrity. 154 opinions have been delivered by the High Authority since 2014, more than half of them since 2017 and 25 in 2019, evidence of the consolidation of an “ethical reflex” in the public sphere.

Requests for opinions may also come from institutions, as happened 7 times in 2019. For example, an administration or local authority wishing to introduce a Code of Ethics for all its employees can refer to the High Authority, requesting it to make an assessment of the Code, give advice on its improvement, and ascertain whether or not legal recommendations are properly complied with. Hence, Paris City Hall⁵⁸ referred to the High Authority in 2018 regarding a draft Code of Ethics developed for its employees, which, among other things, recommended standardisation, for all staff members, of the legal framework governing gifts, invitations and trips, and reinforcement of guarantees of deontologists’ independence.

58. <https://bit.ly/3lp9c6j>

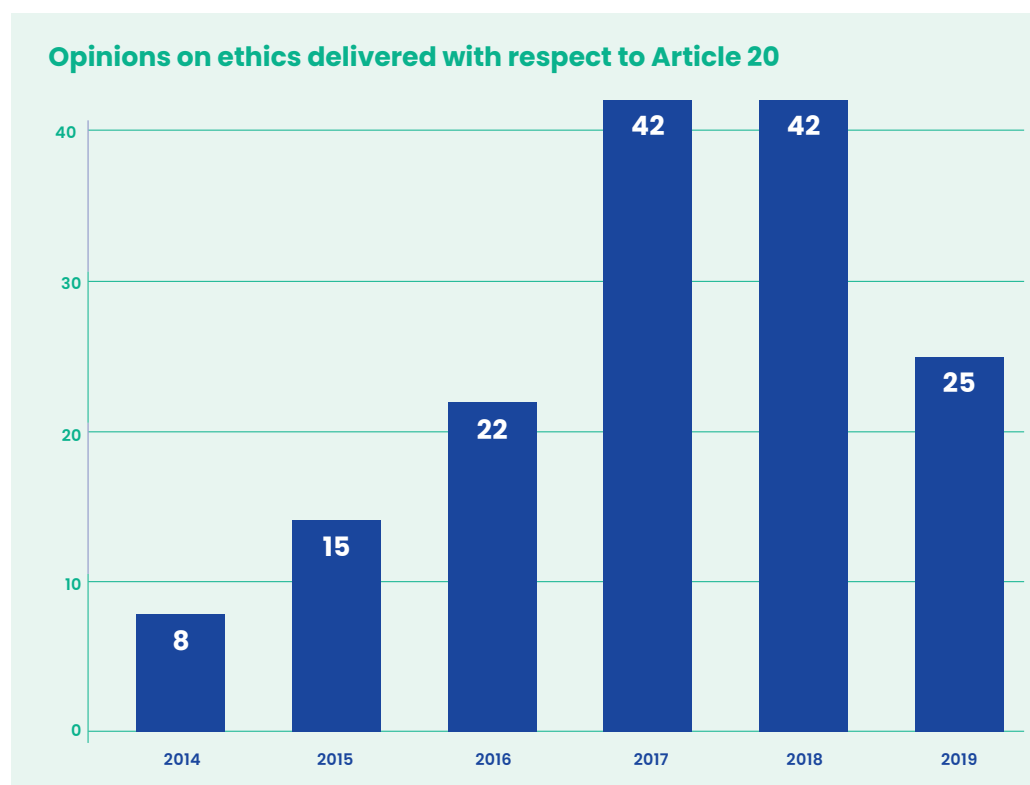


Opinions delivered by the High Authority are confidential and can only be made public following the agreement of the individuals who requested them.



The controls carried out via its opinions on ethical questions have a dual purpose. They help prevent criminal risks of unlawful acquisition of interests (Articles 432-12 and 432-13 of the Criminal Code) along with ethical risks of conflicts of interest. As is the case with examinations of declarations of interests, upon completion of its analysis, the High Authority recommends implementation of appropriate precautionary measures (publication, recusal or relinquishment of the interest), which are monitored by its departments.

There continued to be a good many questions on combinations of activities in 2019, in particular with regard to conflict of interest risks connected with the exercise of private professional activities in parallel with public offices. Another trend worth noting is the increase in referrals concerning situations of third parties. For instance, the President of a local authority referred to the High Authority with regard to certain elected officials in his deliberative assembly participating in decisions relating to public establishments whose boards they were members of.



Referrals prior to nomination

As in 2018, 5 of the Institution's opinions on ethical questions bore on the examination of individuals' situations prior to their nomination to strategic public offices particularly exposed to legal risks. As an example, The High Authority was referred to by the Secretary-General of a Ministry with regard to the nomination of

two individuals to directorial positions in a public-sector company, and by a local executive body on ethical questions arising from the possible recruitment of one of his children to the post of Managing Director of Services. Finally, another opinion concerned a nomination to the board of an independent administrative authority. In such cases of referrals prior to nomination, the High Authority does its utmost to reply as quickly as possible so as not to impede recruitment procedures, and to make recommendations upstream of nominations.

New referrals

In 2019, there were a number of new trends worth noting among the authors of such referrals, some of which were not covered by the texts in force. For instance, for the first time, an association of elected officials referred to the High Authority. In comparison with previous years, there were more referrals by ethics officers wanting to obtain legal clarifications on the ethical framework applicable to public officials, a trend that may be explained by the major changes introduced by the Act on transformation of the civil service. Even though such request may not fall with the scope of its competences as defined by law, the High Authority systematically makes every effort to provide indicative responses.

Legislative modifications have also had an impact on the nature of referrals. The High Authority was referred to on two occasions with regard to the effect of the PACTE law on the “CAREL” optional funded supplementary retirement savings mechanism for local elected officials⁵⁹.

59. See p.51

2.2 Control of professional transition to the private sector

Reminder of the legal framework

The reshaping of public action, marked by ever more frequent comings and goings between the public and private sectors, has created a need for greater supervision of “pantouflage” and “retro-pantouflage”. Article 23 of the Act of 11 October 2013 on transparency in public life provides for controls by the High Authority in this respect. For three years after the end of their terms of office, former Government members, members of local executive bodies and members of independent administrative authorities must refer to the High Authority for Transparency in Public Life

before taking up a *“liberal activity or remunerated activity in a company, public establishment or public interest group whose activity is of an industrial or commercial character”*⁶⁰. Thought is currently underway on the scope of activities coming under the High Authority’s competences with regard to control (see inset).

60. Article 23 of the Act of 11 October 2013 on transparency in public life

In order to rule on a projected new occupation’s compatibility with the public responsibilities previously exercised, the High Authority carries out a twofold control.

Such controls first of all bear on ethical questions, initially focusing on ascertaining whether the projected activities violate the dignity, probity and integrity of previously held offices; then, on whether they have led the interested parties to disregard the requirement of prevention of conflicts of interest incumbent upon them during their previous posts; and finally, on making sure that the new activities do not call the independent, impartial and objective operation of the institutions in which they previously served into question. In this regard, for example, the High Authority checks that the individuals concerned have not used their public duties to prepare for their professional transition.

Secondly, the criminal risk of unlawful acquisition of interests comes under examination. This offence is committed when the individual concerned takes or receives *“an interest, through work, advice or capital”* in a body which they oversaw, concluded contracts of any kind with, or with regard to which they had expressed an opinion to the competent authorities during their previous public offices.

When they set about examining a request, the High Authority’s departments may ask the declarant for *“any explanations and documents necessary to the performance of their mission”*⁶¹. The High Authority may also hear or consult any individuals whose help appears to be of use to it. Such controls sometimes also require exchanges with the administration in which a former public official worked, and with the organisation that they intend to join. However, pursuant to Article 23, the High Authority does not have the right of direct communication with the administration, which significantly lengthens the time taken to process certain referrals. This situation is all the more problematic as, in the context of the new ethical control of public officials, the High Authority can *“ask civil servants or the authorities responsible for their corps, original rankings, or the corps or original rankings or posts to which they were previously seconded or occupied for any necessary information and documents”*⁶².

61. Article 20 of the Act of 11 October 2013 on transparency in public life

62. VIII of Article 25 octies of Act no.83-634 of 13 July 1983 on civil servants’ rights and obligations

Secondly, such exchanges have no effect on the two-month period set by law within which the High Authority must make its ruling. Nonetheless, if the interested party fails to respond, the High Authority can deliver an opinion of incompatibility if it *"deems that it has not obtained the necessary information from the person concerned"*.

The High Authority's prerogatives, in the context of examination of requests relating to former senior public officials' professional transition to the private sector, should therefore be harmonised by creating a right of communication with administrations, similar to that provided for by Article 25 *octies* of the "Le Pors" Law of 13 July 1983. This proposal goes alongside the one previously made in this Report in the context of control of⁶³ public officials' assets.

Upon completion of such controls, opinions, qualified or otherwise, on compatibility or incompatibilities, may be delivered.

⁶³. See p.42



COMPATIBILITY

- **No criminal** or ethical risk
- The public official can engage in their new activity **unconditionally**



QUALIFIED COMPATIBILITY

- There is a criminal and/or ethical risk that warrants implementation of **precautionary measures** by the public official:
 - Not providing services to any of the administrations in which the individual concerned had authority
 - Refraining from any dealings with their former administration, local authority or IAA board
 - Not engaging in interest representation activities
 - Not taking advantage of their former functions
 - Not making use of non-public documents or information that they had knowledge of in the context of their public office
- Reservations expressed are valid for **three years** and are **monitored**



INCOMPATIBILITY

- The criminal and/or ethical risk is too high (e.g. it would put the public official in a situation of **unlawful acquisition of interests**)
- The public official **cannot engage in** the planned activity

Thought given by the High Authority to the scope of activities covered by Article 23 of the Act of 11 October 2013 and III of Article 25 octies of the Act of 13 July 1983

In order to fall within the scope of Article 23 of the Act of 11 October 2013, the private activity envisaged by a former public official in the context of their professional transition must be *“liberal”* (e.g. consultant or lawyer) or *“remunerated, in a company, public establishment or public interest group whose activity is industrial or commercial in character”*.

Since 1 February 2020, Article 25 octies of the “Le Pors” Law has governed “pantouflage” on the part of civil servants and employees, enabling their hierarchical authorities and the High Authority⁶⁴ to assess the compatibility of *“any gainful activity, salaried or otherwise, in a private company or body under private law, or any liberal activity”*. It is then specified that the notion of private company includes *“any body or company carrying out its activity in a competitive sector in compliance with private law”*.

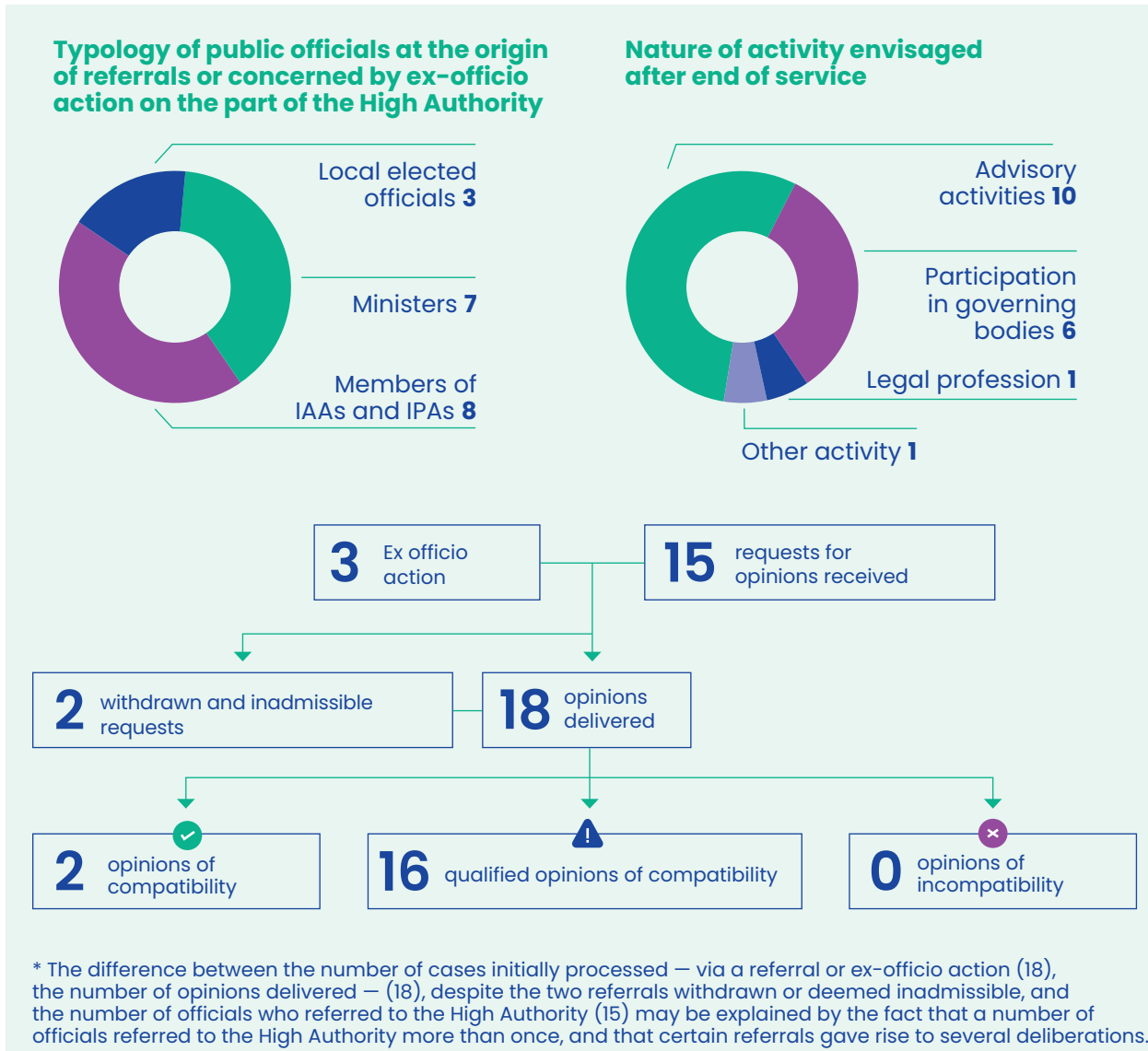
In the first case, remuneration must therefore be received in exchange for the activity performed, so excluding activities carried out on a voluntary basis, whatever type of organisation they are carried out in. In contrast, interpretation of the notion of *“company”* is more subtle and the scope of activities it covers is potentially extendable. Hence, in its legal controls, the High Authority reserves the right to include other entities apart from companies, non-profit bodies in particular (associations and foundations for example). Nor is it bound by the doctrine of the civil service’s Ethics Committee.

So, for the first time, the High Authority acknowledged its competence to rule on a former minister’s professional transition to a sectoral federation of companies (Deliberation no.2019-73 of 10 July 2019⁶⁵), doing so on the basis of several criteria:

- the economic activity carried out by the professional organisation to the benefit of its members, and its major economic weight;
- its composition, made up of numerous private individuals despite a purpose of general interest;
- the existence of a competitive sector, even a small one;
- the fact that the organisation is listed in the register of interest representatives and so carries out an acknowledged lobbying activity.

64. See details of the control pp. 30-31

65. <https://bit.ly/2RFH63K>



In 2019, the High Authority received 20 referrals from public officials wishing to engage in an activity in the private sector upon completion of their activity in the civil service, making 79 such referrals in all since 2014. Almost half of such opinions concerned former members of independent authorities, a trend that may be explained by the large number of board renewals in 2019 and increased awareness-raising among this category of public officials.

The High Authority also possesses a power of ex officio action, which it exercised three times this year, carrying out daily work on identification of public officials falling within the scope of Article 23.

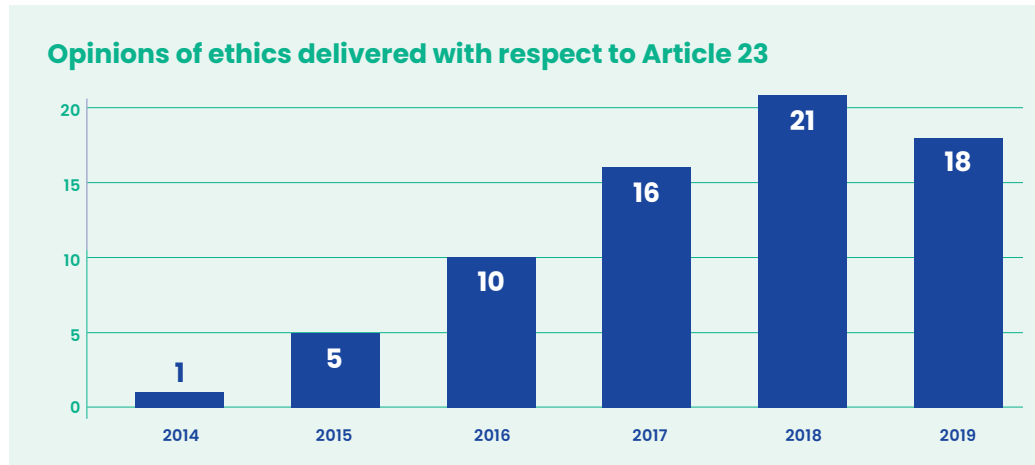
When it delivers an opinion of incompatibility after being referred to by the person concerned, they cannot engage in the activity envisaged and all acts concluded with a view to performance of the activity (work contracts or setup of a company, for example) become null and void at the date of notification of the opinion. Hence, the effects of opinions of incompatibility only apply to the future. However, when the High Authority delivers an opinion of incompatibility after finding out that a new activity is being carried out without prior authorisation, the person concerned cannot carry out the activity concerned and all acts concluded up until notification of the opinion are automatically void. The effect of the opinion of incompatibility is therefore retroactive.

In cases of opinions of incompatibility, the law provides that the High Authority notifies its decision to the person concerned and the body or company in which they have already started to work. As the case may be, it also communicates opinions of incompatibility and qualified opinions of compatibility to the professional order governing the activity concerned. In order to give full effect to the reservations it might issue, the High Authority encourages public officials to take measures to make opinions public themselves, such as communicating deliberations to their future employers or former administrations.

2019 saw the delivery of the first “mixed” opinion. After taking ex officio action, the High Authority ruled on the exercise of an advisory activity by the former President of a local executive body, delivering a qualified opinion of compatibility. However, the control revealed that, subject to the criminal court’s sovereign assessment, the person concerned had put himself in a situation of unlawful acquisition of interests by acting as a consultant to a company when, in his capacity as a public official, he had signed a contract with one of its subsidiaries. Hence, the qualified opinion of compatibility focusing on the advisory activity was complemented by an opinion of incompatibility regarding a client. Pursuant to Article 40 of the Criminal Procedure Code, the High Authority referred the case to the Public Prosecutor.

Finally, regular annual monitoring of the High Authorities’ opinions has been carried for the last three years. If the High Authority comes to know of a former public official engaging in an activity in violation of an opinion of incompatibility or not complying with the reservations made, it contacts the person concerned, who must be able to provide an explanation along with supporting documents. A special report is then published in the *Official Journal* and communicated to the Public Prosecutor along with documents from the case file. This situation only arose once in 2018.





2.3 Attention paid to raising awareness among certain public officials

In 2019, an awareness-raising campaign was launched targeting certain categories of public officials.

Letters were sent to the Presidents of 33 independent administrative and public authorities for internal dissemination, reminding members of their declarative obligations, in particular during renewal of their boards or, as the case may be, of their disciplinary committees.

Members of the President of the Republic's staff and members of ministerial cabinets must also submit declarations of assets and interests to the High Authority. However, certain practices tend to make work on identifying such advisors more complex. Certain nominations and departures sometimes remained unpublished, and there was also a high renewal rate for such posts.

Exchanges with the Secretariat-General of the Government helped clarify characterisation of this function, highlighting the fact that the scope of Article 11 of the Act of 2013 also included advisors appointed by Ministerial Order published in the *Official Journal* as well as individuals serving as cabinet members, whose nominations are not made public (except for support functions such as administrative and secretarial posts). This initiative was at the origin of a Circular on conditions for recruitment of cabinet members, issued on 5 April 2019⁶⁶, reminding all ministers and chiefs of staff of their obligation to comply with the applicable rules. If the number of cabinet staff is limited by decree, their recruitment requires an order issued by the Minister or Minister of State, "*submitted beforehand, with a detailed CV, to the Prime Minister, and then published in the Official Journal*", specifying their title and the functions performed. All ministerial cabinet members must also comply with declarative obligations to the High Authority.

66. Secretary-General of the Government, Circular no.6077/SG of 5 April 2019

The High Authority noted that publication of staff nomination and end-of-service notices became more systematic following dissemination of this Circular, and could not but be pleased to see the change.

Finally, a factsheet was published on the *Lexis 360* legal portal⁶⁷ bearing on control of professional transitions by public officials coming within the scope of Article 23 of the Act of 11 October 2013. It covers the legal framework, control of criminal and ethical risks, opinions delivered by the High Authority and methods of referral.

67. <http://bit.ly/2RBNmcx>

HORIZON 2020

PUBLICATION OF A GUIDE ON CONFLICTS OF INTEREST

Following on from the Ethics Guide published in spring 2019, the High Authority wishes to continue sharing its expertise in the field of ethics and lending its assistance to public officials and ethics officers.

Apprehension of the notion of conflict of interest is complex, as is that of the two related criminal offences, unlawful acquisition of interests during and after public office. Legal and administrative jurisprudences are still relatively overlooked.

Development of prevention of conflicts of interest at all levels of public action, along with the new responsibilities entrusted to hierarchical superiors and ethics officers by the Act of 6 August 2019 on transformation of the civil service accentuate the need for information and training on the subject.

This is why the High Authority has drawn up a guide on conflicts of interest. Intended to serve as a detailed, practical and comprehensible document on conflicts of interest and unlawful acquisition of interests, the guide is based on the High Authority's doctrine. It is divided into 5 parts, dealing successively with:

- assessment of conflicts of interest and unlawful acquisition of interests by administrative and criminal jurisprudences;
- definition of conflict of interest, with private interests and between public interests;
- prevention of conflicts of interest, including oversight of public/private mobility;
- measures for management of conflict of interest risks;
- sanctioning conflicts of interest.

The guide will be available online on the High Authority's website.

The background of the slide features a photograph of a modern, multi-story building with a glass facade, partially obscured by lush green trees in the foreground. A semi-transparent blue gradient is applied over the entire image, creating a professional and corporate aesthetic.

Part IV

Supervising interest representation: a consolidated mission in 2019, a year marked by reinforcement of controls

1. A satisfactory track record for declarative year 2018 despite ongoing difficulties

- 1.1** General review of declarative year 2018 published in June 2019 **85**
- 1.2** Improvement in the quality of information provided: development of new internal tools **89**

2. Increased support to interest representatives

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3. Consolidation of the control procedure

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4. Fostering use of the register and collaboration with civil society

108

The High Authority for Transparency in Public Life is part of an overall movement to reinforce legislation on prevention and suppression of violations of public probity. Since 2016, it has been tasked with a further mission: ensuring compliance on the part of interest representatives (also known as lobbyists) with their declarative and ethical obligations. In the face of high porosity between public and private sectors, this prerogative responds to the emergence of a new democratic requirement – that of reinforcing the transparency of the normative process and public decision-making.

The existence of lobbying was only recently recognised in French law, with Act no.2016-1691 of 9 December 2016 bearing on transparency, the fight against corruption, and modernisation of the economy (the “Sapin II” Law), which instituted the obligation incumbent upon all socioeconomic operators seeking to influence public decision-making to have themselves listed in a digital register managed by the High Authority.

For the first time, French legislation provided a definition of interest representative. The term refers to any legal person (via a director, employee or member) or natural person whose regular or main activity is representation of interests, and who takes the initiative to contact a public official in order to influence a public decision. Introduction of a digital register of interest representatives enables better knowledge of interactions between public officials and lobbyists, so providing an ethical framework for their activity.

Key figures for 2019 / Breakdown of registrations by type of entity

Representative organisations 42.6%



834

- Professional organisations
- Trade unions
- Consular chambers

Companies 28.7%



562

- Trading companies
- Non-trading companies

Non-Governmental Organisations 18.6%



364

- Associations
- Foundations
- Research bodies
- Other NGOs

Lawyers and consultants 7.5%



146

- Law firms
- Freelance lawyers
- Freelance consultants
- Consultancy firms

Other 1.8%



35

Public bodies with industrial and commercial functions (EPICs) 0.8%



15

1. A satisfactory track record for declarative year 2018 despite ongoing difficulties

1.1 General review of declarative year 2018 published in June 2019

For this declarative year, the 1,640 entities listed in the register had up until 31 March 2019 to declare their interest representation activities in 2018 along with the resources allocated to such actions. By the time the deadline was up, only 51% of interest representatives had submitted their declaration of activities. A major reminder campaign launched by the High Authority's departments resulted in the percentage increasing to 89% in June 2019, with a total of 1,452 interest representatives publishing their declaration of activities carried out in 2018.

The main point of the register is to show that interest representation activities can be carried out by any type of entity, in order to promote economic and non-economic interests alike. This characteristic is essential as it provides citizens with a comprehensive vision of all positions upheld around this or that public decision. In this context, although the majority of interest representatives listed in the register act on behalf of companies, professional organisations or consultancy firms, associations and Non-Governmental Organisations are also well represented, accounting for 18.6% of entities listed in 2019.



* An 89% compliance rate

Certain entities are regularly engaged in interest representation activities, while others are listed in the register when there is increased mobilisation connected with a specific legal text, which may be followed by a sharp decrease in activity once the text is adopted. In order to take these variations into account, the High Authority made it possible for interest representatives to make a nil declaration for a year without having to unregister as a result: 315 organisations (21.7%) made use of this possibility and declared that they had not engaged in any interest representation activities in 2018.

Analysis of declarations also revealed disparate levels of activity and financial and human resources. Interest representatives declared an average of 6.24 actions in 2018, with major disparities nonetheless existing between different types of organisations. Whereas associations and NGOs declared an average of a little over 4 actions in 2018, the average for consultancy firms specialising in public affairs was close to 14. Recurring areas of intervention should be correlated with new developments in legislation, such as the “Agriculture and Food” Act⁶⁸ adopted by Parliament in October 2018, and the examination of the 2019 budget⁶⁹.

⁶⁸. Act no.2018-938 of 30 October 2018 on the balance of commercial relations in the agricultural and food sector and a healthy, sustainable food system accessible to everybody

⁶⁹. 2019 Finance Act, 30 December 2018

Breakdown of registered entities that have published declarations of activities, by type of organisation

Professional organisations
25% (-2)

Companies
27% (-2)

Law firms & freelance lawyers
0.5% (-0.5)

Public bodies with industrial and commercial functions
1% (≈)

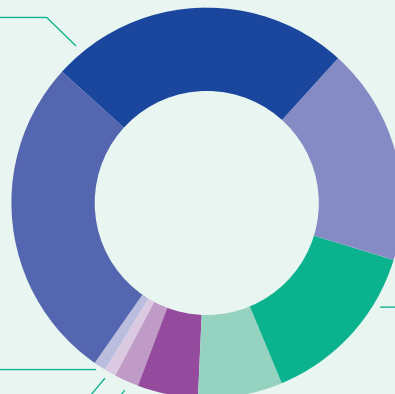
Other organisations
2% (+1)

Associations & NGOs
18% (+2)

Trade unions
14.5% (-0.5)

Consultancy firms & freelance consultants
7% (+1)

Consular chambers
5% (+1)



() evolution in percentage points, compared with 2017

5 most commonly declared areas of intervention on 117

- Agriculture **8%**
- Taxes **4%**
- Healthcare and medicosocial system **4%**
- SMEs / VSEs **3%**
- Housing **3%***

3 ministerial departments accounted for almost half of all interest representation actions:

- Economy and finance **19%**
- Environment, energy and the sea **15%**
- Prime Minister **12%**

6.24

Average number of actions declared by interest representatives



The **Government** is targeted in **56%** of actions and **Parliament** in **67%***.



In **48%*** of interest representation actions, the **law** is the only type of public decision influenced.

* The same interest representation action may target several public decision-makers.

Breakdown by type of action

() evolution in percentage points, compared with 2017

Communicating expert appraisals to public decision-makers in order to persuade

24% (=)

Communicating suggestions with a view to influencing the drafting of a public decision

18% (+2)

Organising informal discussions or tête-à-tête meetings

25.5% (-1.5)

Setting up regular correspondence (by email, letter, etc.)

14.5% (-0.5)

Organising public debates, marches, and influence strategies on Internet

1% (=)

Inviting to or organising events, encounters or promotional activities

6% (-1)

Other: to specify

2% (-1)

Arranging an interview for a third party with the holder of a public office

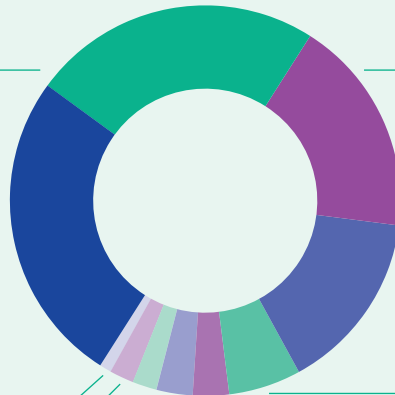
3.5% (-0.5)

Sending petitions, open letters and leaflets

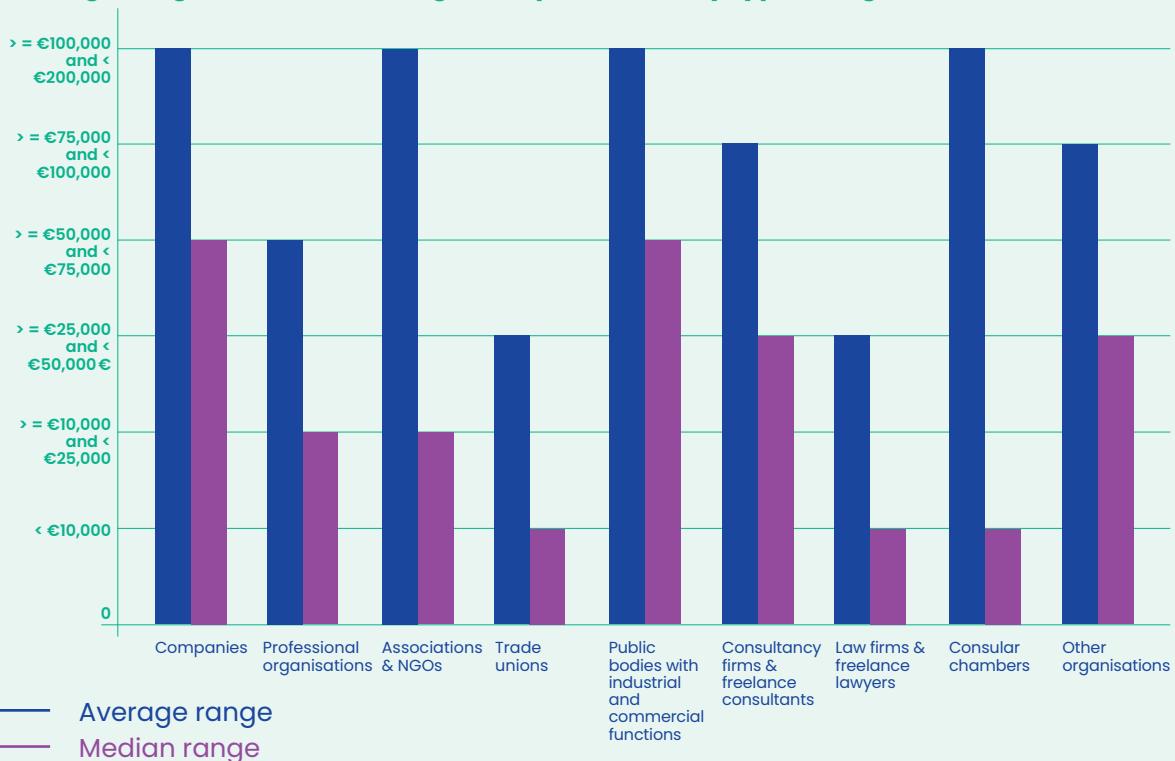
2% (+1)

Organising hearings and formal consultations on legislative acts, or other open consultations

3.5% (+15)



Average range and median range of expenditures by type of organisation



1.2 Improvement in the quality of information provided: development of new in-house tools

The High Authority noted significant improvement in the quality of information provided by interest representatives in comparison with the first declarative year. Activity sheets better met the requirement of clarity and ease of comprehension, essential to achievement of the goal of transparency provided for by law. A number of factors contributed to this improvement:

- better appropriation of reporting (monitoring of their activity) by interest representatives;
- mandatory reading of a factsheet explaining how to declare an “object” (with collection of their acknowledgement of having done so in the “Agora” online declaration service);
- increased educational action on the part of the High Authority;
- incorporation of an algorithm into the teleservice trained to guide interest representatives when they enter their activity sheets and observe any potential errors (*see inset*).

However, it is to be regretted that the “observations” section, which gives interest representatives an opportunity to provide further details or explanation, is still not made enough use of: only 26% of declarations of activities made use of it.

Innovation at the heart of the online declaration service for interest representatives: Use of artificial intelligence

The first declarative period for interest representatives resulted in communication of interest representation activities carried out during the second half of 2017 before 30 April 2018. Almost 6,000 activity sheets were sent by over 1,800 entities listed in the register.

In the annual declarations they submit to the High Authority, interest representatives must complete a declaration of activities for each “object” for which they carried out interest representation actions the previous year, which should be understood as “objective pursued” by entry into communication with public officials. As the “object” is the main piece of information in each declaration, it must be clear and specific enough to give full account of three factors:



- the subject on which the lobbying activity bore, easily comprehensible;
- expected results, i.e. the intended goal;
- the public decision(s) targeted by the activities concerned.

During the first declarative year, the High Authority's departments analysed each of the 6,000 objects received and measured their quality using a scale from 0 to 4 (0 for an "off-topic" object and 4 if it met all three aforementioned criteria). Results were highly unsatisfactory, with over half the objects communicated meeting none of the criteria.

The High Authority therefore developed an algorithm trained to spot poorly defined objects, on the basis of the qualitative assessment of 6,000 "objects" carried out beforehand.

The algorithm made a decisive contribution to improvement of the quality of objects described. 85% of poorly described "objects" are now detected, and the interest representatives concerned immediately informed when they are in the act of completing their online declarations. Although only 44% of "objects" were at least partly in compliance in 2017, the percentage increased to 61% for 2018.

The aim now is to continue to take steps to improve the quality of information in the register in 2020, by introducing a recursive learning functionality in order to correct the algorithm's learning biases and improve it as activity sheets are submitted.

1.3 Ongoing difficulties connected with the complexity of the register's legal framework

The High Authority once again regrets the ongoing difficulties to do with the complexity of the register's legal framework, partly brought about by the Implementing Decree of 9 May 2017⁷⁰. The observations made in its opinion of 5 April 2017⁷¹ are therefore still highly relevant today.

70. Decree no.2017-867 of 9 May 2017 on the digital register of interest representatives

71. Deliberation no.2017-35 of 5 April 2017 delivering an opinion on the draft Decree on the digital register of interest representatives

As in its Activity Report for 2018, the High Authority reiterated its proposal to add an appendix to the aforementioned Decree specifying the individual decisions excluded from the mechanism. Despite some clarification being provided in the guidelines, there is still a measure of legal ambiguity as regards certain situations. For example, the Decree could exclude exchanges between a company and an independent authority active in the economic sphere, even when they are at the company's initiative, when they are to do with the monitoring of procedures underway or bearing on information necessary to implementation of the authority's regulatory competences.

PROPOSAL NO.5

IN AN APPENDIX TO THE DECREE OF 9 MAY 2017, SPECIFY THE LIST OF INDIVIDUAL DECISIONS THAT DO NOT COME WITHIN THE SCOPE OF THE REGISTER OF INTEREST REPRESENTATIVES.

In addition, the definition of an interest representation action is not only complex but also restrictive in that it requires that interaction with a public official take place at the interest representative's **initiative** which is not the case for a great many actions seeking to influence the normative process. Hence, a hearing at a parliamentarian's request does not constitute an interest representation action within the meaning of the Decree, as the law itself does not expressly or implicitly provide for such a condition. This is a daily practice however, carried out, for example, by finance committees' special rapporteurs who hear all sectoral actors on the financial texts they report on. In a deliberation on an opinion on the draft Decree, the High Authority recommended *"instead of such general exclusion, specification that responses to mandatory consultations governed by legal or regulatory mechanisms do not constitute interest representation actions, nor do responses to open consultations when such responses are published or communicable"*.

Furthermore, the criteria adopted to characterise an interest representation activity as "main or regular" are not appropriate. Making ten actions a criterion for a regular activity or characterisation of a main activity is complicated to implement in practice, and ultimately undermines the mechanism's intelligibility.

In addition, the initial goal that led to setup of the register was to trace the normative footprint of laws and regulations, i.e. all information that enables citizens to comprehend the procedure by which such texts are created, by letting them know which actors have taken part in their drafting, who was heard on the subject, who submitted arguments for and against a provision, etc.

The list of information to declare adopted by the Decree has resulted in excessive restriction of the legal mechanism's scope. In order to have better knowledge of the normative footprint, more detailed information than that required by the present Decree (which should be amended) could well be declared. Such supplementary information might concern specific public decisions that have been subject to interest representation actions and the exact functions of the public officials with whom interest representatives have entered into contact.

Finally, the register would be more effective if the present rhythm of interest representatives' communication of their lobbying activities, currently set at once a year, were increased. Ireland and the United States have set a rhythm of three and four times a year respectively, which is why the High Authority had initially proposed a half-yearly rhythm, which would bring about an increase in information made available to the public while limiting declaration constraints for lobbyists.

PROPOSAL NO.6

SIMPLIFY THE LEGAL FRAMEWORK GOVERNING THE CURRENT REGISTER OF INTEREST REPRESENTATIVES, BY:

- REMOVING THE CRITERION OF INITIATIVE AND THE CRITERION OF "MAIN OR REGULAR ACTIVITY" FOR CHARACTERISATION OF AN INTEREST REPRESENTATION ACTIVITY;
- EXTENDING AND SPECIFYING THE TYPES OF INFORMATION TO BE DECLARED BY INTEREST REPRESENTATIVES IN THEIR ACTIVITY SHEETS;
- SWITCHING FROM A YEARLY TO A HALF-YEARLY RHYTHM FOR SUBMISSION OF DECLARATIONS OF ACTIVITIES.

The French register will also be including activities targeting main local decision-makers as from 1 July 2021. Such comprehensiveness, covering public decisions and the public officials concerned alike, makes the French mechanism one of the most extensive in the world, as most countries restrict their registers' scope to national activities.

From that date onwards, the scope of public officials for whom interest representatives will have to declare their actions will cover some 19,000⁷² individuals. Such extension gives rise to several risks:

72. Senate, Bill for a State at the service of a society of trust, 1st reading, no.COM-226, sub-amendment no.259

- less clarity of information declared in the register;
- sometimes disproportionate obligations that will weigh on certain entities, small and medium-sized companies and local associations in particular.

The change will also have consequences on the High Authority's workload, both as regards support to interest representatives and control of their declarative and ethical obligations. It will require a substantial increase in human and financial resources in order to carry out its mission successfully.

PROPOSAL NO.7

POSTPONE THE REGISTER OF INTEREST REPRESENTATIVES' EXTENSION TO RELATIONS WITH LOCAL AUTHORITIES SET FOR 2021 FOR TWO YEARS; OR, FAILING THIS, SET MORE APPROPRIATE THRESHOLDS FOR EXTENSION OF THE REGISTER AT LOCAL LEVEL IN TERMS OF INHABITANTS, PUBLIC OFFICIALS CONCERNED AND PUBLIC DECISIONS TARGETED*.

* This could be postponed to July 2022 in the context of the Bill containing various urgent provisions to deal with the covid-19 epidemic, which was still under examination when this Report was being written.

2. Increased support to interest representatives

With a view to facilitating interest representatives' appropriation of the register and their declarative and ethical obligations, the High Authority has made advice and education cardinal principles at the very heart of its action.

2.1 Delivering expert legal appraisals of declarants' issues

The High Authority's departments do their utmost to reply to legal questions raised by interest representatives, bearing on apprehension of the characterisation of representation actions, the list of entities coming with the register's scope and the retention period for information collected by the High Authority.

Assistance provided by phone is also very much in demand, with close to 1,666 calls in 2019 and major peaks before closure of the declarative year.



2.2 Focusing on training and awareness-raising

In view of the declarative deadline of 31 March 2019, the High Authority organised an information half-day in February 2019 – a first of its kind, attended by some sixty participants including representatives of companies, consultancy firms, federations and associations. The event provided an opportunity to issue a general reminder of declarative obligations, with special focus on activity sheets and the notion of "object". As the 2017 "running-in" period had come to an end, the High Authority's methodology and means of control as regards lobbying were also on the programme.

In 2019, the High Authority's departments were approached four times by associations of interest representatives (The French Association of Lobbying and Public Affairs Consultancies (AFCL) and the Association of Public Affairs Professionals (APAP)) and firms specialising in public affairs (Séance Publique and Bourry, Tallon et Associés) with requests to present the register and provide details on the related declarative obligations.

The High Authority also published a factsheet on the *Lexis 360* legal research portal⁷³, presenting methods of registration in the digital register of interest representatives.

73. <http://bit.ly/2RBNmcx>

Finally, in response to recurring questions, the High Authority developed a new information tool for interest representatives with the uploading of a FAQ page⁷⁴ providing such information as types of actions counted as entries into communication, the value above which a liberality or gift made to a public official must be declared, and the retention period for supporting documents for the purposes of a possible future control.

74. <https://bit.ly/2RoTDHc>

3. Consolidation of the control procedure

3.1 Reminder of the legal framework

Declarative and ethical obligations

When they are first listed in the register, interest representatives are required to provide several items of information: the interest representative's identity, its directors and individuals tasked with interest representation activities, entities of which the interest representative is a member (professional organisation, associations, etc.), and the identity of third parties on whose behalf interest representation actions are carried out.

Within the three months following the end of their financial year, they must also communicate various items of information relating to the lobbying actions they engaged in and the means employed in their respect.

For the first year in which the system was in force, registered interest representatives published their declarations of interest representation actions carried out during the second half of 2017 in the register, before 30 April 2018. From now on, however, interest representatives must communicate their declarative reports within three months as from the closure of their financial year, for all actions carried out during that year, i.e. before 31 March for most organisations. Reports must include⁷⁵:

- questions on which interest representation actions bore (object and field of intervention – 117 fields are provided by the High Authority);
- the type of public decisions (laws, regulatory acts, concession contracts, etc.; See Appendix to the Decree of 9 May 2017⁷⁶);
- the type of interest representation actions (sending leaflets, organising appointments, communicating expert appraisals in order to persuade, etc.);

⁷⁵. All information to be communicated is detailed in the guidelines.

⁷⁶. Decree no.2017-867 of 9 May 2017 on the digital register of interest representatives

- the categories of public officials with whom the interest representative entered into communication, specified in Article 18-2 of the Act of 11 October 2013 (Government member, parliamentarian, person holding a Government-appointed post, etc.);
- expenditures on interest representation (remunerations, event organisation expenses, expert assessment costs, liberalities and advantages provided to public officials, etc.).

Interest representatives who do not comply with their declarative obligations are liable to criminal sanctions similar to those applicable in cases of noncompliance with their ethical obligations (a year's imprisonment and a 15,000-euro fine).

The register also enables supervision of relations between public officials and lobbyists by providing a clear ethical framework⁷⁷. In addition, the legislature wished to reinforce lobbyists' ethical obligations, in view of their regular exchanges with public officials. The values that these two types of actors must comply with are also analogous, as interest representatives must exercise their profession with probity and integrity, just like public officials.

⁷⁷. Article 18-5 of Act no.2013-907 of 11 October 2013 on transparency in public life

They are also subject to a number of negative obligations. They must refrain from offering or giving public officials gifts or advantages of significant value, encouraging infringement of ethical rules, and organising colloquia featuring public officials in return for payment. Certain lobbying practices have caused scandals in the past, such as inviting MPs to sporting or cultural events and giving gifts of significant value, raising suspicions of possible conflicts of interest or attempts at corruption or influence peddling.

Interest representatives' compliance with their ethical obligations helps ensure the legitimacy of their activity. The enshrinement of these obligations in the law was a first step in dissemination of best practices and development of ethical behaviours within the profession.

Interest representatives: what ethical obligations?

- ✓ Exercise their activity with **probity and integrity**
 - ✓ **Declare their identity, the organisation for which they work and the interests or entities that they represent** in their relations with public officials
-
- ✗ Offer or give such individuals **any gifts, donations or advantages of significant value**
 - ✗ **Make any kind of payment to** the President of the Republic's staff, members of ministerial cabinets or an MP's, Senator's or parliamentary group's staff
 - ✗ **Encourage such individuals in any way to infringe the ethical rules** applicable to them
 - ✗ Approach such individuals with a view **to obtaining information or decisions by fraudulent means**
 - ✗ Obtain or try to obtain information or decisions by **deliberately communicating erroneous information to such individuals or resorting to manoeuvres intend to deceive them**
 - ✗ **Organise colloquia, events or meetings** in which the methods used to give public officials the floor are **connected to a remuneration in whatever form**
 - ✗ Use **information obtained** from public officials for commercial or advertising purposes
 - ✗ **Sell copies of documents** coming from the Government or an independent administrative or public authority to third parties, or **use such public authorities' and administrative bodies' headed paper or logos**



These ethical obligations must also be complied with in **relations with public officials' immediate circles**

Nonetheless these general rules need to be organised and specified, in particular the notions of “significant sum”, public officials’ “immediate circle”, and “remuneration in whatever form”. In this respect, Article 18-5 provided for the possibility of adopting a Decree in Council of State, following opinion from the High Authority. However, the High Authority regrets that such Decree is yet to be published. The clarification it would provide on these terms would help improve the control procedure in cases of breaches of ethics.

The High Authority’s powers of control⁷⁸

78. Article 18-6 of Act no.2013 907 of 11 October 2013 on transparency in public life

The High Authority is tasked with management of the register of interest representatives and making sure of their compliance with their declarative and ethical obligations. There are a good many issues involved in such control. The system’s credibility and efficacy rely on the accuracy of information declared; in other words, that all entities meeting the legal definition of interest representative are actually registered, and that information declared is an accurate reflection of the lobbying activities they carry out among public officials. A tool at the service of transparency, the register is also available to citizens, journalists, and researchers in and observers of public life, with a view to the data it contains being consulted, worked on and reused, which implies that they must be checked upstream.

In this respect, as it has the power of control of documents, the High Authority may require interest representatives to provide it with any information and documents useful or necessary to performance of its mission, including activity monitoring and reporting tools, job descriptions, work contracts, agendas and calendars, notes and letters sent, accounting reports, expense accounts and minutes of meetings.

If an interest representative does not respond within one month, the High Authority’s Board may undertake an injunction procedure. Such procedure was not made use of in 2019.

The High Authority’s employees may also carry out onsite checks on interest representatives’ business premises, upon authorisation by the Paris High Court’s Liberty and Custody Judge, without professional secrecy being invoked against them.

When a breach of declarative and/or ethical obligations has been found, the law provides that a statement of complaint be sent to the interest representative concerned, which has one month to send its observations to or request to be heard by the High Authority’s departments. After this adversarial phase, and failing compliance, the Board may send a letter of formal notice, to be published on its website. If this final demand is not complied with, the case file is sent to the Public Prosecutor.

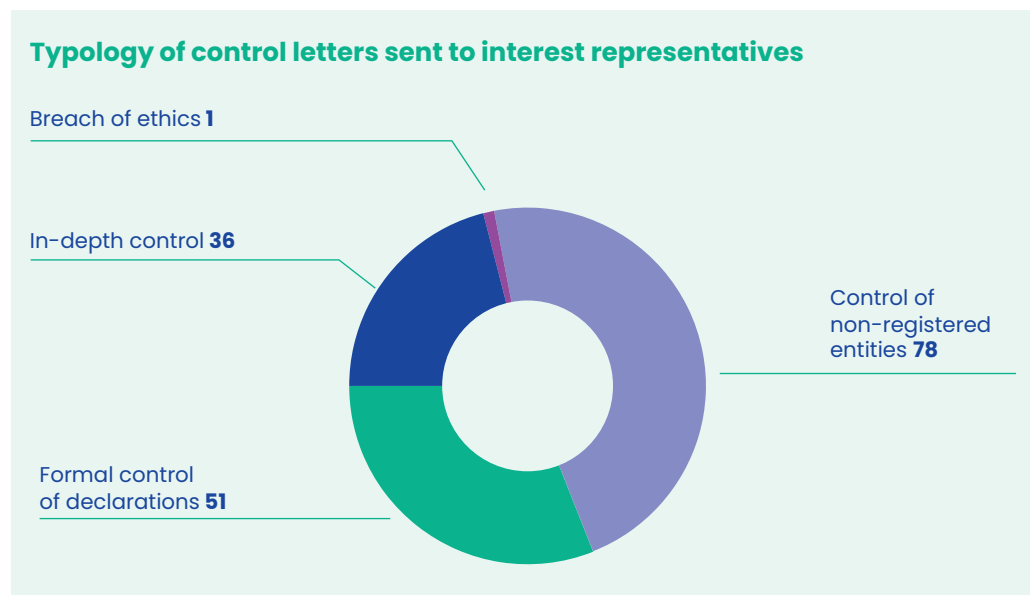


79. Deliberation no.2019-38 of 20 March 2019

In the context of the General Data Protection Regulation (GDPR), the High Authority specified the obligations of retention of information relative to interest representation activities in a deliberation issued on 20 March 2019⁷⁹. Pursuant to the provisions governing the High Authority's powers of control, interest representatives are obliged to keep and, if required, produce documents relating to their interest representation activities and the expenditures they devoted to them, as well as documents evidencing their compliance with ethical rules.

In order to enable the High Authority to carry out effective, pointful controls, interest representatives are consequently required to conserve such information and keep it available to the High Authority for five years as from the closure of the financial year following the year during which the interest representation activity was carried out.

3.2 The existence of three types of controls



Control of non-registered entities

The High Authority's job is to identify entities that should be listed in the register, when there is a body of evidence suggesting that they meet the criteria provided for by law. Such evidence may consist of one or more posts in the organisation dedicated to public affairs, registration in other lobbying registers (such as the European register), detection of one or more meetings with public officials with a view to influencing a public decision, or simply an entity's explicit mention of lobbying as one of its activities on its website. In 2019, 78 of the 166 control letters sent by the High Authority concerned non-registered entities.

As previously emphasised, due to the definition of interest representative being so complex, the High Authority's departments are involved in daily monitoring work seeking to identify and list organisations that should include themselves in the register. Such work takes a number of forms.

It may be initiated following **reports** from civil society, public officials, or interest representatives themselves. 18 reports were received in 2019 (a number significantly higher than in 2018), all of which were checked and some of them controlled.

Current political developments are also an invaluable source of information. As the scope of interest representation is constantly evolving, political time serves as a basic reference frame for identification and listing of entities, through the positions they take in the context of the normative process, for example. This is why the High Authority's departments are engaged in comprehensive mapping of operators involved in Bills and proposed laws, while also monitoring interventions in public debate, up until final adoption of the provisions concerned. Hence, in 2019, close attention was paid to parliamentary work on the "Agriculture and Food" Act and the Bill on bioethics.

Finally, **internal monitoring** is carried out, making use of the specialised press and analysis by activity sector.

Control of annual declarations



Once an entity is registered, this second type of control seeks to check whether the declaration of activities was actually published on the date provided for and whether the information it contains is coherent, accurate and exhaustive, and so fully reflects the interest representation activities engaged in.

An automatic reminder of the declarative obligation is sent by email fifteen days after the end of the deadline. If an interest representative has not declared their activities, an initial reminder is sent, followed by a second reminder a week later informing them that they have fifteen days in which to rectify their situation. If there is no response, the entity is included on the list of *"interest representatives that have not communicated any or part of the information required by law to the High Authority"*. This list, inspired by the *"name and shame"*⁸⁰ practice, is published on the High Authority's website. However, such reminders, even when they are complemented by public posting, only have a limited impact. Entities least exposed to media attention seem little affected by publication of their failure to send declarations to the High Authority, so involving further reminder work on the part of the Institution's departments. At end 2019, around 150 interest representatives were on the list.

⁸⁰. See p.86 of the High Authority's Activity Report for 2018. <https://bit.ly/2yASwyQ>

In order to give interest representatives enough time to appropriate the register and their declarative obligations, “in-depth” controls only start in the second declarative year.

A variety of indications may lead to initiation of this procedure: Inconsistent or inadequately declared “objects”, omissions regarding clients, individuals tasked with interest representation activities or entries into communication with public officials, or resources devoted to interest representation activities. 36 control letters concerning information contained in declarations were sent in 2019.

A number of best practices were identified in anticipation of possible future controls and in order to keep track of interest representation activities⁸¹. As an example, all registered entities were recommended to implement an in-house activity monitoring or reporting tool enabling consolidation of the information that needs to be provided in the event of control. A model was uploaded on the High Authority’s website.

81. <https://bit.ly/3a5lyDG>

Control of ethical obligations

If there is any suspicion of an interest representative’s noncompliance with their ethical obligations, the High Authority may undertake a documentary and/or onsite control. 2019 saw the first control of this kind implemented. In addition, in the context of in-depth control of declarations of activities, internal Codes of Ethics are systematically requested.

3.3 Powers to carry out documentary and onsite controls that need to be consolidated







Unlike other independent administrative authorities vested with powers of control (*see table*), the texts governing the High Authority’s powers of documentary and onsite control are relatively ambiguous. For example, they do not provide for the High Authority being able to seal documents, carry out hearings onsite or upon notification, seize documents or information mediums, or require judicial police officers to accompany its staff during onsite visits. Clear, effective powers are essential to the High Authority if its control procedures are to be legally safeguarded.

Although the law provides for criminal sanctions on interest representatives in the event of their non-communication of

82. Article L. 464-2 of the
Commercial Code

information and documents necessary to the High Authority's controls, no sanction is provided for in cases of obstruction of documentary or onsite controls. This configuration is unprecedented among independent administrative authorities vested with control prerogatives as, for most of them, the legislature has provided for criminal and/or administrative sanctions in the event of obstruction of proper implementation of control procedures. Apart from the two-year prison sentence and 300,000-euro fine that anybody obstructing the functions of the Competition Authority's officers is liable to, the Commercial Code⁸² also provides for the possibility of pronouncing an injunction along with a penalty when a company does not respond to a request for documents (the so-called obstruction procedure).

The offence of obstruction of controls of interest representatives would not be a French specificity. In Ireland, for example, the 2018 *Regulation of Lobbying Act* introduced an offence of obstruction of investigations carried out by the Commission on Standards in the Civil Service, liable to two years' imprisonment and a fine of 250,000 euros.

INDEPENDENT ADMINISTRATIVE AUTHORITIES	CONTROL PREROGATIVES					
	 Power of copying	 Power of seizure	 Computer search	 Possibility of sealing documents	 Possibility of carrying out onsite hearings	 Criminal and/or administrative sanction imposable in the event of opposition to functions or obstruction of the smooth running of a control operation
Financial Market Authority (AMF)	✓	✓	✓	✓ When there are problems with onsite inventorying.	✓	Criminal sanctions Two years' imprisonment and €300,000 fine Administrative sanctions Non-monetary (reprimand, warning, etc.) or monetary (may be as much as €100 million in certain cases).
Electronic Communications, Postal and Print Media Distribution Regulatory Authority (ARCEP)	✓	✓ Limited	✓	✓	✓	Criminal sanctions Three months' imprisonment and/or €30,000 fine in cases of unjustified obstruction or refusal to produce or communicate requested documents.
National Data Protection Commission (CNIL)	✓	✗	✓	✗	✓ Only upon prior notification.	Criminal sanctions One year's imprisonment and €15,000 fine
Competition Authority	✓	✓ Limited	✓	✓	✓ With the occupant of the premises or their representative.	Criminal sanctions Two years' imprisonment and €300,000 fine
High Authority for Transparency in Public Life	✓	✗	✓	✗	✗	✗

Hence, in its Opinion of 24 March 2016 on the “Sapin II” Bill, the Council of State asserted the need *“to provide for [...] an offence of obstruction of the High Authority’s controls with regard to individuals required to list themselves in the register due to their activity as interest representatives”*. The Bill, which was adopted by the National Assembly at first reading, provided for a term of one year’s imprisonment and a 15,000-euro fine *“for whoever obstructed, in whatever way, the exercise of the powers vested in the High Authority”* for control of interest representatives. This provision was then amended by the Senate, which deleted the prison term but increased the fine to 30,000 euros before any reference to an offence of obstruction was finally removed from the definitive text.

In order to reinforce the High Authority’s prerogatives of control, the Act of 11 October 2013 should be amended to reintroduce the offence of obstruction along with related criminal penalties similar to those existing for other independent administrative authorities.

A system of administrative sanctions for certain breaches (lack of response, continued non-submission following reminder, and major omissions) would also make an effective complement to the mechanism.

As already touched upon in the Activity Report for 2018, the choice of a criminal sanction system is not best suited to the sanctioning of breaches connected with the register of interest representatives. Implementation of administrative sanctions proportionate to the breaches in question – equivalent for legal persons, for example, to a percentage of their annual turnover, would be the best option.

PROPOSAL NO.7

PROVIDE THE HIGH AUTHORITY WITH A POWER OF ADMINISTRATIVE SANCTION
FOR CERTAIN BREACHES OF DECLARATIVE AND ETHICAL OBLIGATIONS.

PROPOSAL NO.8

IN THE CONTEXT OF CONTROL OF INTEREST REPRESENTATIVES, PROVIDE FOR
AN OFFENCE OF OBSTRUCTION OF THE MISSIONS CARRIED OUT THE HIGH
AUTHORITY’S EMPLOYEES, ALONG WITH RELATED CRIMINAL PENALTIES.

3.4 Reinforcing public officials' obligations of transparency

In order to gain better knowledge of the normative footprint while facilitating control of interest representatives' declarative obligations, open-data publication of meetings between public officials and interest representatives would put the finishing touches on the system. Knowledge of communications initiated by interest representatives is certainly a major advance, but knowledge of meetings accepted by public officials is a further step, necessary to ensuring greater transparency in their relations with interest representatives. Publication of agendas also responds to the crucial issue of reconstruction of the normative footprint and traceability of public decision-making.

Regulation of lobbying can only be effective if obligations of transparency are reciprocated, i.e. if public officials make information on their relations with interest representatives available in an open, homogeneous format. Publication of such information in easily exploitable open data would encourage its reuse by citizens, researchers and journalists. Finally, once universalised, this initiative, already implemented by certain public officials (see inset) would ensure the consistency of information contained in the register and so help reinforce the High Authority's "in-depth" controls of declarations.

Publication of meetings with interest representatives: a best practice well worth developing

Mindful of the need for transparency, some French public officials already publish their agendas. Each week, for example, almost all Ministers and Secretaries of State upload their respective provisional agendas. However, most of them cannot be exported in an exploitable format (XLS or CSV for example), the two exceptions being the Prime Minister's and Minister of Culture's agendas. Furthermore, information essential to reconstruction of the normative footprint is absent from such agendas, such as subjects of meetings or reasons for encounters. Agenda formats would therefore gain by being harmonised, so that the various data they contain could be cross-referenced.

Parliamentarians have also acted *ex officio* on this question. In October 2019, 322 MPs signed an open letter⁸³ advocating greater transparency in their relations with interest representatives, in particular by publishing their agendas, which more than twenty of them do, either on social networks or on their websites.

Since 1 January 2018, Paris City Hall's elected officials have also had the possibility of publishing their appointments with interest representatives on the City's "Transparency" platform, developed in partnership with Transparency International. The system also enables redirection to entities' entries in the High Authority's register.

Since 2014, at European level, members of the Commission and their staff have had to publish a certain amount of information on the meetings they hold with interest representatives (date, place, purpose and participants). In January 2019, Parliament adopted an amendment to its rules of procedure that obliges key actors in the legislative process (chairpersons of committees handling texts, and each parliamentary group's rapporteurs and advisors) to publish all formal meetings with lobbyists in their agendas.

83. Open letter, "Lobbying: for radically new proactive practices with regard to transparency", *Le Monde*, 9 October 2019

PROPOSAL NO.9

ENCOURAGE, STEP-BY-STEP OPEN-DATA PUBLICATION OF PUBLIC OFFICIALS' MEETINGS WITH INTEREST REPRESENTATIVES IN ORDER TO MAKE THEIR RELATIONS MORE TRANSPARENT.

4. Fostering use of the register and collaboration with civil society

The register is a tool at the service of public officials, who can use it to find out more about the interlocutors whom they deal with as well the various actors involved in a given activity field. It also enables greater equity in access to public decision-makers. Lobbyists with fewer means available to them, such as NGOs and small associations, can be afforded newfound legitimacy by the register and be directly identified by the public officials who consult it. Further efforts at educating public officials and their staff need to be made, so as to encourage them to consult and use the information it contains, in order to prepare for an appointment, for example, or decide whether or not to receive an interlocutor. Interest representatives' compliance with their declarative obligations is a key criterion. Recalcitrant interest representatives would gradually be marginalised, which would eventually create a virtuous circle of encouragement to comply with legal obligations.

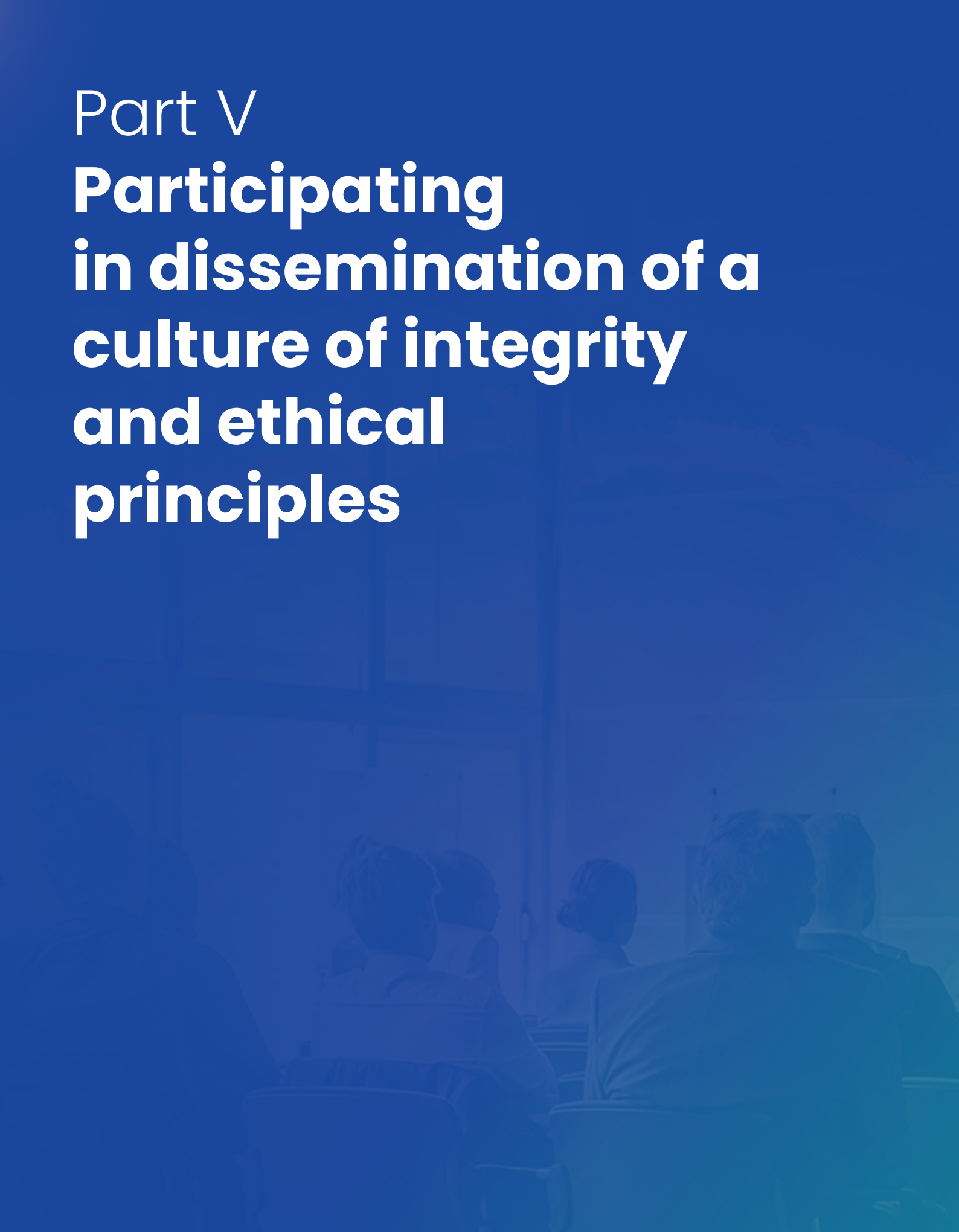
The High Authority also continued with its collaboration with civil society and the academic world throughout the year, one example being its association with the *“Trust me Project”*, an ambitious innovative project led by two Professors from Trinity College Dublin, Raj Chari and Michele Crepaz. The project, which includes the study of countries other than France, has three main goals:

- better conceptualisation of transparency and related policies, in the public sector and private sector alike;
- better conceptualisation of regulation of lobbying;
- production of an indicator enabling assessment of the impact and robustness of various public policies in this field.

Two study visits were organised in order to present the High Authority’s missions and operation, focusing above all on regulation of lobbying. In addition, the research team is currently carrying out a study of the impact of laws relating to lobbying on interest representatives’ activities. The High Authority also hosted Yves Boisvert, a Canadian political analyst, in the context of his research work, in order to present the register mechanism and procedures for control of interest representatives.

Part V

Participating in dissemination of a culture of integrity and ethical principles



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Since its creation, the High Authority has become an essential institutional actor in dissemination of a culture of integrity. On a daily basis, it communicates the legal and ethical expertise that it has developed in the context of the prerogatives vested in it by law, presenting its missions and raising public awareness of the problems involved. Ethical culture is far from being innate and requires special efforts to be made with regard to education, advice and training, all of which are essential to appropriation of rules.

1. Institutionalising regular meaningful dialogue with integrity actors

1.1 Ethics officers: strategic partners in 2019 and 2020

81. Act no.2016-483 of 20 April 2016 on civil servants' ethics, rights and obligations; Implementing Decree no.2017-519 of 10 April 2017 bearing on ethics officers in the civil service

The Act of 20 April 2016⁸¹ created a *“right to consult an ethics officer, tasked with providing [them] with useful advice on compliance with ethical obligations and principles”* for civil servants and public officials. Administrations, local authorities and public health institutions are therefore required to appoint an ethics officer so that their employees can exercise this new right. Such actors may be individuals or in collegial form, and be internal or external to the entity; the duties involved may be full-time or combined with others; ethics officers' powers, which in principle relate to public officials, may be extended to elected representatives, in local authorities in particular.

Whatever their mode of designation and exercise of office, ethics officers must be able to carry out their missions in compliance with three requirements: independence from hierarchical and political powers, confidentiality of responses provided, and proximity to employees, who must be informed of their existence and competences and of modalities for referring to them.

Ethics officers act as privileged relays, working in the midst of an organisation's employees to disseminate the requirements of integrity, probity and impartiality. Their priority mission is to educate, train, and deliver concrete, operational, confidential and reassuring advice on ethical questions in response to the problems that may arise in the performance of public missions. It may also concern conflict of interest risks in cases of combinations of activities, the correct behaviour as regards acceptance of gifts and invitations, and obligations of recusal.

Their role has also been extended by the reform resulting from the Act of 6 August 2019 on transformation of the civil service. Ethics officers may now be referred to by their hierarchical superiors if these latter have any serious doubts about an employee's request for authorisation to create or take over a company, professional transition to the private sector, or in the context of control of pre-nomination regarding certain positions.

Once again in 2019, the High Authority's regular meaningful dialogue with ethics officers confirmed the previous finding that, having to deal with complex legal situations and oversee the necessary ethical management of public bodies, deontologists sometimes find themselves isolated and powerless in the performance of their office.

This is why the High Authority decided to institutionalise its exchanges with these integrity actors, through regular meetings with all ethics officers in the public sphere. This initiative has enabled development of a corpus of common positions and reflections and a consequent search for a measure of consistency in administrative action on ethical questions, going beyond the specificities of individual entities.

There are also other local initiatives worth noting, including the Rhône-Alpes Region's network of deontologists, and, as regards central administrations, the Ministry for the Armed Forces' network of advisors, and, more generally, the State civil service's network of ethics officers. In addition, since 2018, the National Centre for the Territorial Civil Service (CNFPT) has been holding an annual Territorial Ethics Officers Day.

In September 2019, the High Authority itself held the Second Meeting of Ethics Officers in the Public Sphere (*see inset*), bringing together over 80 ethics officers working with elected representatives and public officials, in central administrations, local authorities and their operators, independent administrative authorities, and parliamentary institutions. The event, which was organised in partnership with the CNFPT, had "Deontological Tools" as its chosen theme and was divided between a roundtable and practical workshops, a format enabling the High Authority to share its

ethical expertise and foster dialogue. The highly positive feedback received from all participants has led the Institution to consider organising further such training sessions in 2020.



With the participation of



Feedback on the Second Meeting of Ethics Officers in the Public Sphere in September 2019

On 19 September 2019, the High Authority organised the Second Meeting of Ethics Officers in the Public Sphere, held at the Maison de la Recherche in Paris and bringing together almost 80 participants.

The morning was devoted to a roundtable on the subject of deontological tools, during which three ethics officers (Hervé Expert, Chair of the City of Nice's Ethics Committee; Alice Navarro, Ethics Officer at the Directorate-General of the Treasury, and Pierre Villeneuve, former Ethics Officer for the Brittany Region) shared their experiences, the problems they were confronted with in performance of their duties, and the solutions implemented. The debate was moderated by Edwige Belliard, Ethics Officer to the boards of the Prudential Supervision and Resolution Authority (ACPR).

The debate was followed by a wide range of questions from the public, covering such issues as nomination of elected officials in external bodies, data retention, and mobilisation of human and financial resources at the service of deontology.

Afternoon workshops focused on ethics officers' tools: training; the Ethics Charter; tools for prevention of conflicts of interest; communication, risk mapping and management of relations with interest representatives.

In order to make useful documents more accessible to public officials and ethics officers, the High Authority has also developed a dedicated space on its website, making a range of resources available. It includes legal texts, the Board's deliberations on opinions on ethical questions and professional transition to the private sector, along with practical tools such as the guide for declarants and guidelines for interest representatives.

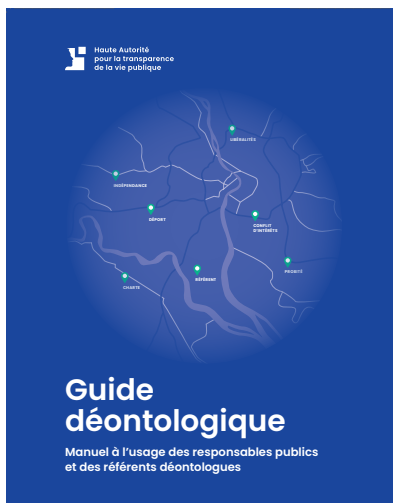
Over the longer term, in order to unify the network, the High Authority is giving consideration to creation of a secure space dedicated to ethics officers, who, when they identify themselves, would have access to reference documents and a forum fostering exchanges and the sharing of experience. However, this will first of all require continuation of the work on listing and identifying ethics officers that the High Authority undertook in 2016. Ethics officers who so wish may now contact the High Authority in order to be identified and informed of future events organised by the Network of Ethics officers.

Finally, in 2019, the High Authority's Legal and Ethics Division was regularly contacted by ethics officers needing advice on legal questions. Although the High Authority did not rule on any individual situations, requests also bore on combinations of activities, assessment of conflict of interest risks arising from the insular character of départements, and practical implementation of the new ethics control provided for by the Act of 6 August 2019 on transformation of the civil service and coming into force on 1 February 2020. Future creation of an email address dedicated to ethics officers will facilitate and centralise such referrals, which are sure to become more numerous in the coming years.

Although exchanges with ethics officers are well worth reinforcing, the High Authority wishes to emphasise that such partnerships do not aim to and cannot result in creation of any form of reporting relationship between the High Authority and ethics officers, or circumvention of the principles enshrined in the Act of 6 August 2019. Ethics officers must be able to respond directly to the administrative authorities that refer individual situations to them; Such authorities are then free to refer to the High Authority if they have any serious doubts about a project's compatibility.

1.2 Publication of the Ethics Guide

Confronted with the necessary modernisation of deontological tools within the entities concerned, the High Authority's support to public officials and ethics officers took concrete form in April 2019 with the publication of an Ethics Guide.



The proliferation of standards relating to ethics, conflict of interest prevention and transparency, and the flexibility permitted by the texts with regard to how they are applied can be sources of difficulties for the administrations and local authorities that have to put them into practice, as well as for the elected representatives and public officials subject to them. This is why the High Authority wanted to make its legal and ethical expertise available, expertise refined since its creation by examination of declarations of interests submitted by over 15,000 public officials and the assistance it lends to administrations and local authorities in the drafting of their codes of ethics and implementation of mechanisms ensuring compliance with them.

The Guide is made up of factsheets and practical tools and covers a range of subjects: risk mapping, adoption of a code of ethics, institution of an ethics officer, implementation of conflict of interest prevention mechanisms and best use of material and financial resources made available to elected officials and staff. The aim so to provide ethics practitioners, new and experienced alike, with useful instruments. In this respect, the High Authority makes practical documents available, such as models for referrals to ethics officers and declarations of gifts and advantages, and an example of the procedure for collection of reports issued by whistleblowers.

The Guide has also been well received abroad and was translated into English in September 2019. Both versions are available online on the High Authority's website. Hard copies can also be sent upon request.

1.3 Accredited associations

Pursuant to Article 20 of the Act of 11 October 2013, the High Authority may be referred to by accredited associations whose statutory objective is combating corruption and violations of public probity, when they have knowledge of breaches connected with declarative and ethical obligations on the part of public officials or interest representatives. Such associations may also act as relays between citizens and the High Authority, enabling them to remain anonymous.

Two associations are accredited by the High Authority: Transparency International France and Anticor. In July 2019, following the Board's deliberation and hearing of Anticor's Vice-President, association's accreditation was renewed for a period of 3 years. Since 2014, the two associations have communicated 13 reports, including 3 in 2019, to the High Authority, which examined each of them.

1.4 Signature of a protocol with the French Anticorruption Agency

Created by the “Sapin II” Law of 9 December 2016⁸², the French Anticorruption Agency (AFA) is a service with national competence under the aegis of the Minister of Justice and the Minister of Public Action and Accounts. In this context, the Agency is responsible for drawing up *“recommendations [...] intended to prevent or detect acts of corruption, influence peddling, bribery, unlawful acquisition of interests, misappropriation of public funds and favouritism”* for the attention of administrations, local authorities and any natural or legal person under public or private law.

On its own initiative, it may also carry out controls assessing the quality and effectiveness of procedures for prevention and detection of violations of probity within large companies, administrations, local authorities and their public establishments, semi-public companies, and associations and foundations of recognised public utility.

On 26 November 2019, in order to ensure better coordination of actions between the two institutions with complementary missions, the High Authority and the AFA signed a protocol specifying the terms of their cooperation.

⁸². Act no. 2016-1691 of 9 December 2016 on transparency, the fight against corruption and modernisation of the economy

2. Disseminating the High Authority's missions and raising awareness among the target groups concerned

2.1 Numerous actions still carried out to present the High Authority

Well aware of the need to make its mission better known and educate the public at large, the High Authority continued its actions to this effect, actively participating in colloquia on 40 occasions in 2019, as well as in events at universities and public service schools.



Colloquia connected with its missions and expertise

Exchanges on a variety of subjects including lobbying and reform of the ethical framework governing public officials

- “Regards croisés sur le lobbying” (Different Perspective on Lobbying) colloquium at the National Assembly;
- Opening by the President of the 5th International Forum on the Constitution and Political Institutions, on the theme of political ethics; etc.



Conferences hosted by local authorities

Action targeting local authorities’ elected representatives and public officials, on the themes of conflict of interest prevention and public probity

- Days devoted to local elected officials’ ethics bodies: conferences organised by the Sud Provence-Alpes-Côte d’Azur Region’s Deontology Commission and Nice’s Ethics Committee;
- The CNFPT’s 10th Territorial Legal Meetings, devoted to ethics and transparency; etc.



Collaborations with the academic world

Raising students’ awareness of ethics with presentations alternating between theoretical content and practical simulations for better appropriation of the issues involved (9 operations during initial training)

- Joint Day organised by the National School of Administration (ENA) and the National Institute for Territorial Studies (INET), devoted to ethics (initial training);
- The National School of the Judiciary’s advanced programme on economic and financial criminal law (continuing training);
- International programmes developed by the ENA: 6 operations targeting foreign civil servants; etc.
- 8 operations involving Master’s degree courses in public affairs and political representation taught at universities and institutes of political studies: communication on the register, declarative and ethical obligations incumbent upon registered entities and controls initiated by the High Authority since the beginning of 2019.

Communicating on the High Authority’s supervision of lobbying, to an audience of students likely to be involved in interest representation activities in their future careers



In view of the strategic importance of developing ethics for future public officials and presenting them well before they take office, the High Authority is currently giving thought to **extending such operations to other schools of public service**, including regional institutes of administration.

2.2 Development of a training offer for public officials and ethics officers

Clear evidence of its solid footing on France's institutional landscape, the High Authority is regularly called upon to deliver training courses for public officials and so share its expertise.

Examples of training courses:

- participation in a day organised in June 2019 at the initiative of the Court of Auditors to provide financial court judges with training on control of declarations of assets and conflict of interest prevention;
- participation in a training course on conflict of interest prevention for employees of the Île-de-France Water Authority, in the light of upcoming modification of its mode of management;
- participation in a training course for 50 Bourgogne-Franche-Comté Region employees.

The High Authority is also set on continuing with development of its training offer for ethics officers, with organisation of one-off sessions, such as the sessions organised for City of Paris ethics officers in March 2019. The success enjoyed by the workshops organised on the occasion of the Meeting of Ethics Officers in September 2019 showed that its participants were very much in favour of such initiatives, in view of the legal complexity of various situations brought to their attention by elected representatives and employees. Nonetheless, it must be said that very few training sessions on ethics have been created, those that do exist being delivered by the CNFPT or private organisations. The Directorate-General for Administration and the Civil Service (DGAFP) is also going to step up its educational actions targeting ethics officers, so as to enable them to perform their duties more effectively.

2.3 Publication of legal contributions

With a view to contributing to public debate, ensuring its visibility in the legal world and disseminating its doctrinal positioning and expertise, the High Authority publishes contributions every year in specialised journals and works containing the proceedings of colloquia. In 2019, 10 such contributions were published, including a contribution to a collective work on the supervision of interest representation edited by the Institution's President, Jean-Louis Nadal.

Two factsheets, one devoted to mobility between public and private sectors and the other to the register of interest representatives, were also published on the *Lexis 360* website. The High Authority's active participation in colloquia focusing on deontological tools and conflicts of interest among parliamentarians also formed the subject of written contributions⁸³.

83. See Appendix 5, p.154

2.4 Award of the 2019 Research Prize

Wishing to promote production of knowledge and stimulate public debate, the High Authority created the Research Prize in 2017 to reward a scientific publication providing better understanding of or developing innovative operational proposals on transparency, public ethics, lobbying or the fight against corruption.

The Research Prize is very much in keeping with the High Authority action on dissemination of a culture of integrity and promotion of transparency, first of all by ensuring that original, high-quality scientific work on subjects connected with its activity enjoys greater visibility. It also enables consolidation of the High Authority's ties with the academic work, in extension of its participation in colloquia.

The jury for the 2019 Research Prize was chaired by High Authority Board member Odile Piérart and composed of Fergal O'Regan, Director of the European Ombudsman's strategic unit, and Guillaume Tusseau, University Professor at Sciences Po's Law School.

A call for candidates was published in April 2019 on the High Authority's website and disseminated to 150 research centres and universities. The Institution's departments received 21 publications, 6 of which were selected for examination by the jury. Reflecting the quality of the choice of publications submitted to the High Authority, the four books and two theses provided fresh legal, sociological and philosophical insights into such diverse and complex problematics as administrative transparency, regulation of the financing of political life and the influence of interest representatives.

After deliberation, the 2019 Research Prize was awarded to Guillaume Courty, author of *Le lobbying en France. Invention et normalisation d'une pratique politique*⁸⁴. A prize-giving ceremony was held on 6 November 2019 in the presence of the jury and the High Authority's President, Board members and staff.

A University Professor and Director of the Master of Political Science programme at the University of Lille, Guillaume Courty is the author of several publications on interest groups and lobbying. The result of fifteen years of investigation and research, the work sheds new light on the practice of lobbying in France. The author traces the development of lobbying from its first appearance to its institutionalisation and also covers the question of interest representatives' influence on the drawing up of standards.

2.5 Increased legal monitoring

The High Authority publishes a bimonthly legal watch summarising doctrine, jurisprudence and the latest legislative, regulatory and institutional developments with regard to transparency, probity, the fight against corruption, and interest representation.

The watch is disseminated simultaneously on the High Authority's website and the LinkedIn and Twitter social networks. Some sixty individuals, academics and ethics officers, are currently on the dissemination list.

84. Guillaume Courty, *Le lobbying en France. Invention et normalisation d'une pratique politique*, Brussels, Peter Lang coll. "La fabrique du politique" (The Policy Factory), 2018, 401 pp.



The members of the jury award the 2019 Research Prize to Guillaume Courty (right), 6 November 2019

3. Promoting transparency

3.1 Dissemination mediums recognised by the public

Serving as a medium for dissemination of its missions and news, the High Authority's website also enables users to consult public officials' declarations of assets and interests whose publication is provided for by law, and, since 2017, the register of interest representatives. Dedicated spaces containing legislative and regulatory texts, the High Authority's Board's public deliberations, and documentation have been created on the website with a view to centralising all such information of particular use to ethics officers and other stakeholders.

The site continued to enjoy considerable success in 2019, with 1,677,622 pages consulted and 313,398 individual visitors, a 9.85% increase compared with 2018.

The High Authority is also present on Twitter and LinkedIn, where numbers of visits to its pages also increased significantly in 2019. In order to ensure full transparency and greater accessibility, this year saw the introduction of weekly publication on Twitter of the list of public official's declarations uploaded on the website, along with a monthly recap of new information available for consultation in the register of interest representatives.



7,322 subscribers
at 31 December 2019
+15% compared with 2018



2,147 subscribers
at 31 December 2019
+35.6% compared
with 2018

3.2 State of Play in 2019



1,677,622
pages viewed
on hatvp.fr
313,398
individual
visitors



5,169
declarations
of assets
and interests
consulted
on hatvp.fr



1,978 interest
representatives'
sheets consulted
on hatvp.fr

4. Stepping up International cooperation

4.1 A consolidated multilateral international activity

International cooperation on integrity and the fight against corruption is essential these days, as it enables the High Authority to make its mission known and benefit from exchange of best practices. Consequently, the High Authority took 17 trips abroad in 2019 to take part in colloquia at the invitation of international organisations and European institutions. In the context of the work carried out by the OECD's Public Governance Committee (PGC), for example, the High Authority took part in the biannual work undertaken by the *Senior Public Integrity Officials (SPIO) working group*, in order to present its action with regard to regulation of interest representation. In keeping with this initiative, the High Authority is collaborating with the OECD in creation of public integrity indicators. It is also a member of the G20's anticorruption working group.

As it is now a prominent feature of the international institutional landscape, the High Authority is regularly represented in French delegations, as was the case with its participation as expert examiner in the assessment of Mali in the context of application of the United Nations Convention against Corruption. It also attended the presentation of the report on GRECO's 5th evaluation round bearing on prevention of corruption and promotion of integrity in central governments (senior offices in the executive branch) and law enforcement authorities (*see inset*).

GRECO's 5th evaluation round



The Group of States against Corruption (GRECO) is a Council of Europe body set up in 1999 to evaluate means and mechanisms deployed by States to combat corruption and promote integrity.

Each evaluation round, which takes place between peers for the 49 member States, results in recommendations on institutional and legal reforms and practices that could be implemented. A compliance procedure is then carried out to evaluate the measures taken by members to implement the recommendations made.

The 5th evaluation round, launched in 2017, focuses on prevention of corruption and promotion of integrity in senior offices of the executive branch and law enforcement authorities, including ethical principles and deontological rules, conflicts of interest, prohibition or limitation of certain activities, declarative obligations and work on raising awareness.

As it is responsible for control of the integrity of Government members and their cabinets, the High Authority played an active part upstream of the drafting of the evaluation report on France, answering questionnaires on its missions and the scope of its control with regard to the integrity of senior officials in the executive branch. An onsite visit by the evaluation team in April 2019 helped provide further clarification of the role played by the High Authority.

The evaluation report on France was presented in Strasbourg in December 2019. Among other things, GRECO commended the recent legislative changes made in France, which “*considerably reinforced transparency in public life*” and integrity in the public sphere due to implementation of numerous declarative systems and conflict of interest prevention mechanisms. Some of its 18 recommendations were in line with the proposals made by the High Authority in its successive Activity Reports, such as publication of senior public officials’ agendas in order to ensure greater transparency in their relations with interest representatives. It was also recommended that the register of recusals, which is currently only applicable to Government members, be extended to members of ministerial cabinets, and that the High Authority should control the elected President of the Republic’s declarations of assets and interests.

In 2019, as a key actor in integrity in the public sphere in France, the High Authority was once again called upon by institutions in other countries having to meet the same challenges with regard to public integrity and transparency, with requests to share its experience.

International participation:

- visit to Rome at the invitation of the International Association of Anticorruption Authorities (IAACA). A platform created in 2006, the Association aims to facilitate the sharing of experiences by and cooperation between anticorruption authorities, in extension of the commitments made by States party to the United Nations Convention against Corruption;
- the Secretary-General's participation in the launch of the Francophone Network for Parliamentary Ethics and Deontology (RFEDP), which aims to encourage thought on these matters and promote implementation of standards in parliaments;
- participation in two training days held in Tunisia, at the request of the National Agency for the Fight against Corruption (INLUCC) following modification of the Tunisian legal framework governing declarations of assets and prevention of conflicts of interest.

In parallel with its ongoing multilateral activity, the High Authority strengthened its bilateral ties by hosting 25 foreign delegations, more than it had done in previous years. Each presentation is adapted to the needs expressed by interlocutors, whose study visits usually take place in the context of projects for reform of integrity mechanisms. In the context of the Ministry for Europe and Foreign Affairs' Future Leaders Invitation Programme (PIPA), 5 prominent foreign figures were hosted by the High Authority. Representatives of civil society were also hosted, including a Slovakian anticorruption NGO and representatives of the Transparent Election Foundation of Afghanistan (TEFA). In addition, three training days were organised for employees of the Romanian National Integrity Agency (NIA).

In 2019, in a context of debates on Europe's integrity framework (see *inset*), the High Authority stepped up its cooperation with European institutions. In February 2019, a delegation of staff from the departments run by European Union Ombudsman Emily O'Reilly was hosted at the High Authority's premises for a day of exchanges. Discussions held put the High Authority's prerogatives into perspective as well as touching upon their common mission of prevention of conflicts of interest and comparing France's policies on integrity with those implemented in European institutions. The French model of the High Authority for Transparency in Public Life also formed the subject of a study visit by the European Commission in January 2020.

Towards creation of a European independent authority overseeing public officials' probity?

Following the European Parliamentary elections in May 2019, the risk of conflicts of interest among MEPs gave rise to much debate following publication of a report by Transparency International EU revealing that almost a third of the 751 parliamentarians were involved in remunerated activities in addition to their mandates. Furthermore, European Parliament's rejection of the candidacies of three commissioners due to suspicions of conflicts of interest highlighted the flaws in control of public officials' integrity at European level.

Since 2012 and adoption of the first code of conduct with regard to financial interests and conflicts of interest, MEPs have been required to submit declarations of financial interests to the President of the European Parliament. The Presidency's departments then carry out a "*general control of plausibility*" and, in the event of doubt, only the President may refer matters to the advisory committee, which is made up of MEPs. The President may then determine a penalty following the advisory committee's recommendations – a procedure which is seldom used in practice. Only 24 cases have been examined since 2014, and one reprimand delivered.

There would also seem to be room for improvement in the examination of possible conflicts of interest among future European commissioners during the nomination procedure. The European Parliament's Legal Affairs Committee only has five days to examine case files, and has no prerogatives of investigation or control. Detection and control of conflicts of interest among European commissioners already in office is the responsibility of the Chair of the Committee, who takes all useful preventive measures, if necessary, after consulting an independent Ethics Committee whose opinions are not binding or made public.

Lastly, over the two years (three for former Chairs) following cessation of their duties, former Committee members must reveal any intentions they may have of exercising a professional activity and the Ethics Committee delivers opinions on such projects. Over the same period, they must also refrain from carrying out lobbying activities concerning questions arising from their former portfolios. However, the case of a former Chair of the Committee who joined a merchant bank is emblematic of the gap between public indignation and absence of sanctions, as the Committee only ruled that he had displayed a *“lack of judgement”* but had not committed an offence.

This is why it was proposed that an independent body be set up, common to all European institutions and entirely dedicated to compliance with rules of ethics, on the French model of the High Authority for Transparency in Public Life. In its Annual Report for 2019, the European Court of Auditors stressed that Europe’s ethical framework cannot be effective without appropriate control procedures. It recommends reinforcing examination and checking of declarations, while harmonising rules and best practices between institutions. The resulting project is promoted by the new President of the European Commission, Ursula von der Leyen, and supported by the European political groups Renaissance, The Greens and the European United Left.

Its missions would be as follows: controlling the accuracy of information declared by MEPs; promoting transparency by open data publication of information collected from European public officials; preventing conflicts of interest. In order to be effective, a body of this kind would have to be provided with real powers of control, investigation and sanction. The President of the French Republic also stated that he was in favour of creation of an independent ethics authority at European level.

4.2 Bilateral visits

Following on from its exchanges with Mexico, the High Authority was asked to take part in the first Franco-Mexican seminar devoted to “deontology and transparency at the service of the general interest”, organised by the French Embassy and in which the Vice-President of the Council of State also participated. The event provided an opportunity for the High Authority to present its missions and, more generally, the French model for prevention of conflicts of interest and control of lobbying.

4.3 The Network for Integrity



The High Authority for Transparency in Public Life has presided over the Network for Integrity since December 2019.

Created in 2016 with the aim of promoting an international culture of integrity and facilitating exchange of information and best practices, the Network currently comprises 14 institutions⁸⁵ and two observer countries. Despite coming from different legal traditions, all member authorities are vested with competences with regard to transparency, ethics and integrity among public officials. Their status also guarantees their independence from the political power in the exercise of their competences.

85. Armenia, Croatia, France, Georgia, Greece, Ivory Coast, Latvia, Mexico, Moldavia, Romania, Senegal, South Korea and Ukraine

In September 2019, the Network published *Guidelines on ethics and integrity in the public sector*⁸⁶, a document aiming to provide general recommendations on ethics and integrity that would apply to all public officials, no matter what institution they belong to. It also includes a self-assessment questionnaire designed to help employees assess their levels of commitment to ethical values and to their institutions.

86. <https://bit.ly/36mpjTO>

4.4 The European Network of Lobbying Registrars

On 16 May 2019, the High Authority hosted the Second Meeting of the European Network of Lobbying Registrars. The event followed on from an initiative launched by Ireland's Standards in Public Office Commission (SIPO), which had held an initial meeting in Dublin in 2018, bringing together six countries and representatives of European institutions.

Designed on the model of the Network for Integrity but specifically focusing on interest representation, this is a unique initiative. Despite different definitions of lobbying and scopes of regulation depending on national legislations, the forum provides an opportunity for members to exchange and cooperate on the subject of implementation and results of mechanisms for overseeing lobbying, and also, more generally, on best practices, difficulties, and desirable or necessary improvements.

In Paris, representatives of the authorities responsible for Austrian, British, Catalan, French, Irish, Lithuanian and Scottish registers and of the Joint Secretariat of the European Union's Transparency Register presented the various initiatives intended to ensure better regulation of interest representation. Each participant presented the legal framework and lobbying register implemented in their country or institution. The question of implementation of controls and, where appropriate, imposition of sanctions on interest representatives gave rise to a good deal of discussion, demonstrating the complexity of such procedures. Methods for dissemination and possibilities for reuse of data published in registers was also discussed, enabling the High Authority to present the "Latitudes"⁸⁷ project. The question of extraction from and comparison of different registers at European level was also touched upon, a task nonetheless made difficult by the evident differences between regulation mechanisms.



Meeting of the European Network of Lobbying Registrars in Paris on 16 May 2019

87. See Activity Report for 2018, p.82

4.5 International watch

The High Authority publishes a monthly watch dedicated to the latest international development with regard to public integrity and transparency and the fight against corruption, including work carried out by international and European institutions along with national legislation and reforms. Accessible on the website in French and English⁸⁸, the international watch is closely followed, with 476 subscribers at 31 December 2019.

88. <https://bit.ly/35o6qjj>

Appendices

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Appendix 1:

List of proposals in 2019

PROPOSAL NO.1

Enable the High Authority to obtain direct communication, in particular from banks and financial institutions, insurance companies, State administrations, local authorities, public establishments and all individuals tasked with public service, of the information necessary to the performance of its control missions, in compliance with the guarantees required by the Constitutional Council.

p.42

PROPOSAL NO.2

Provide the High Authority with a power of administrative sanction for certain breaches of declarative and ethical obligations.

p.47
p.105

PROPOSAL NO.3

Publish declarations of assets submitted by Members of Parliament, Senators and French representatives at the European Parliament on the High Authority's website.

p.57

PROPOSAL NO.4

Change the legal framework governing control of financial instruments applicable to certain public officials so as to enable:

p.71

—either preservation of financial instruments unchanged for Government members, below a specified threshold;

— or transfer of financial instruments after their nomination;

accompanied by an obligation to notify the High Authority, within a mandatory period, of the option selected as to the choice of management mode excluding right of scrutiny.

PROPOSAL NO.5

In an Appendix to the Decree of 9 May 2017, specify the list of individual decisions that do not come within the scope of the register of interest representatives.

p.91

PROPOSAL NO.6

Simplify the legal framework governing the current register of interest representatives, by:

- removing the criterion of initiative and the criterion of “main or regular activity” for characterisation of an interest representation activity;
- extending and specifying the types of information to be declared by interest representatives in their activity sheets;
- switching from a yearly to a half-yearly rhythm for submission of declarations of activities.

p.92

PROPOSAL NO.7

Postpone the register of interest representatives’ extension to relations with local authorities set for 2021 for two years; or, failing this, set more appropriate thresholds for extension of the register at local level in terms of inhabitants, public officials concerned and public decisions targeted.

p.93

PROPOSAL NO.8

In the context of control of interest representatives, provide for an offence of obstruction of the missions carried out the High Authority’s employees, along with related criminal penalties.

p.105

PROPOSAL NO.9

Encourage, step-by-step open-data publication of public officials’ meetings with interest representatives in order to make their relations more transparent.

p.107

Appendix 2:

Monitoring of proposals made in the 2018 Activity Report

Proposal in the 2018 Activity Report	Monitoring of the proposal
1. Publish declarations of assets submitted by MPs and French representatives at the European Parliament on the High Authority's website, and extend the deadline for publication of end-of-service declarations to one year.	Ø
2. Issue a Decree specifying the list of public establishments and companies that fall within the High Authority's field of competence and the list of management positions in each of them that are required to meet declarative obligations.	Ø
3. Make communication to the High Authority of transcripts of decisions on nomination of public sector directors falling within its field of competence mandatory.	Ø
4. Harmonise the sanction system applicable in cases of non-submission of declarations to the High Authority: replace the sanction of compulsory retirement for MPs and public sector directors with the criminal sanction applicable to all other declarants.	Ø
5. Enable the High Authority to obtain direct communication from professionals and administrations of information necessary to the performance of its control mission, in compliance with the guarantees required by the Constitutional Council.	Ø
6. Prior to any resumption of private activity, extend the scope of referral to the High Authority to members of presidential and ministerial cabinets, pursuant to Article 23 of the Act of 11 October 2013.	Act no.2019-828 of 6 August 2019 on transformation of the civil service subjects members of presidential and ministerial cabinets to an obligation of referral to the High Authority

2018 Activity Report proposal	Monitoring of the proposal
7. Refocus the register of interest representatives on its initial purpose: obtaining the normative footprint and creating transparency on the drafting of laws and regulations.	Ø
8. In cases of failure to register or breaches of declarative and ethical obligations, switch from a criminal sanction system to an administrative sanction system.	Ø
9. Publish the Decree in Council of State specifying interest representatives' ethical obligations.	Ø
10. As was done for the territorial civil service, include ethics officers in the employment directory for State and hospital civil service functions, in order to characterise the skills required of and resources allocated to this new civil service position.	Ø
11. Create a training programme for ethics officers.	In 2019, the High Authority increased its action on behalf of ethics officers by providing legal advice and dedicated training courses

Appendix 3:

Summary table of precautionary measures provided for by law in cases of conflicts of interest

Administration, organisation or institution of affiliation	Function targeted
Government	Prime Minister
	Minister
	Minister of State and Minister Delegate
	Ministerial Chief of Staff
	Ministerial cabinet member
	Secretary-General of the Office of the President of the Republic
	Other of the President of the Republic's staff

NB: This exhaustive table summarises declarative obligations to which public officials coming within the High Authority's field of competence are subject. It does not include obligations and controls under other authorities' aegis.

Precautionary measures		
Written information from the hierarchical authority	Recusal	Delegation of questions and powers which may put an official in an acknowledged or potential conflict of interest situation
✗	✗	✓ for the first minister appointed in the Decree on composition of the Government
✓ addressed to the Prime Minister	✓ <i>by Decree</i> registration in the Government's conflict of interest prevention register	✓ for the Prime Minister
✓ addressed to the Prime Minister and the Minister under whom they are placed	✓ <i>by Decree</i> registration in the Government's conflict of interest prevention register	✓ for the Minister under whom they are placed
✓ addressed to the Minister	✓	✓ may be decided by the Minister
✓ addressed to the Chief of Staff and the Minister	✓	✓ may be decided by the Chief of Staff
✓ addressed to the President of the Republic		✓ may be decided by the President of the Republic
✓ addressed to the Secretary-General of the Office of the President of the Republic	✓	✓ may be decided by the Secretary-General of the Government

**Administration, organisation
or institution of affiliation**

Function targeted

MP

Senator

**Parliament & French representatives
at the European Parliament**

French representative at the European Parliament

Precautionary measures		
Written information from the hierarchical authority	Recusal	Delegation of questions and powers which may put an official in an acknowledged or potential conflict of interest situation
<p>✓</p> <p>addressed to the Bureau of the National Assembly</p> <p>&</p> <p>in the context of parliamentary work, MPs may make public, either in writing or orally, the fact that they have a relationship of interest which, although it does not constitute a conflict of interest, should be brought to their colleagues' knowledge</p>	<p>✓</p> <p>MPs may decide to recuse themselves from certain work</p> <p>Registration in the register of declarations of recusal</p>	<p>✗</p>
<p>✓</p> <p>addressed to the Bureau of the Senate</p> <p>&</p> <p>in the context of parliamentary work, Senators may make public, either in writing or orally, the fact that they have a relationship of interest which, although it does not constitute a conflict of interest, should be brought to their colleagues' knowledge</p>	<p>✓</p> <p>Senators may decide to recuse themselves from certain work</p> <p>Registration in the register of declarations de recusal</p>	<p>✗</p>
<p>✓</p> <p>MEPs inform the President of the European Parliament when they have been unable to resolve a conflict of interest themselves</p> <p>&</p> <p>in the context of parliamentary work, MEPs may inform the President, either in writing or orally, of the fact that they have a relationship of interest which, although it does not constitute a conflict of interest, should be brought to their colleagues' knowledge</p>	<p>✓</p> <p>MEPs may themselves take any useful measures to put an end to a conflict of interests, including recusal</p>	<p>✗</p>

Administration, organisation or institution of affiliation	Function targeted
Parliament & French representatives at the European Parliament	The President of the National Assembly's Chief of Staff
	Other of the President of the National Assembly's staff
	The President of the Senate's Chief of Staff
	Other of the President of the Senate's staff
Local authorities	President of a Regional Council
	Regional Councillor with delegated signature authority
	President of a Départemental Council
	Départemental Councillor with delegated signature authority
	President of an EPCI with its own tax system
	President of the Lyon Metropolis Council
	Vice-President of an EPCI with its own tax system with delegated signature authority

Precautionary measures		
Written information by the hierarchical authority	Recusal	Delegation of questions and powers which may put an official in an acknowledged or potential conflict of interest situation
✓ addressed to the President of the National Assembly	✓	✓ may be decided by the President of the National Assembly
✓ addressed to the Chief of Staff and President of the National Assembly	✓	✓ may be decided by the Chief of Staff
✓ addressed to the President of the Senate	✓	✓ may be decided by the President of the Senate
✓ addressed to the Chief of Staff and President of the Senate	✓	✓ may be decided by the Chief of Staff
✗	✓ by order	✓ provided for by the recusal order
✓ addressed to the President of the Regional Council	✓ by order made by the President of the Regional Council	✗
✗	✓ by order	✓ provided for by the recusal order
✓ addressed to the President of the Départemental Council	✓ by order made by the President of the Départemental Council	✗
✗	✓ by order	✓ provided for by the recusal order
✗	✓ by order	✓ provided for by the recusal order
✓ addressed to the President of the EPCI	✓ by order of the President of the EPCI	✗

Administration, organisation or institution of affiliation	Function targeted
Local authorities	Vice-President of the Lyon Metropolis Council with delegated signature authority
	Member of the Bureau of an EPCI with its own tax system with delegated signature authority
	Mayor
	Deputy Mayor with delegated signature authority
	Elected President of a French Overseas local authority's executive body (e.g. President of French Polynesia, President of the Government of New Caledonia)
	President of the Executive Council of Corsica
	Member of Corsica's Executive Council with delegated signature authority
	President of the Assembly of French Guiana
	Member of the Assembly of French Guiana with delegated signature authority
	President of the Executive Council of Martinique
	Member of the Executive Council of Martinique with delegated signature authority
	Member of the Assembly of Martinique with delegated signature authority

Precautionary measures		
Written information from the hierarchical authority	Recusal	Delegation of questions and powers which may put an official in an acknowledged or potential conflict of interest situation
✓ addressed to the President of the Lyon Metropolis	✓ by order of the President of the Lyon Metropolis	✗
✓ addressed to the President of the EPCI	✓ by order	✗
✗	✓ by order	✓ provided for by the recusal order
✓ addressed to the Mayor	✓ by order	✗
✗	✓ by order	✓ provided for by the recusal order
✗	✓ by order	✓ provided for by the recusal order
✓ addressed to the President of the Executive Council of Corsica	✓ by order	✗
✗	✓ by order	✓ provided for by the recusal order
✓ addressed to the President of the Assembly of French Guiana	✓ by order	✓ provided for by the recusal order
✗	✓ by order	✓ provided for by the recusal order
✓ addressed to the President of the Executive Council of Martinique	✓ by order	✗
✓ addressed to the President of the Executive Council of Martinique	✓ by order	✗

Administration, organisation or institution of affiliation	Function targeted
Local elected officials	Local authority's chief of staff (referred to in I, 2° of Article 11 of the Act of 2013)
	Deputy Director and Chief of Staff of a local authority (referred to in I, 2° of Article 11 of the Act of 2013)
IAAs – IPAs and other bodies	President of an IAA, IPA or IAA in New Caledonia or French Polynesia
	Member of the board of an IAA, IPA or IAA in New Caledonia or French Polynesia
	Managing Director or Secretary-General of an IAA, IPA or IAA in New Caledonia or French Polynesia
	Deputy Managing Director or Deputy Secretary- General of an IAA, IPA or IAA in New Caledonia or French Polynesia
	Managing Director and Secretary-General of a body other than an IAA or IPA
	Deputy Managing Director and Deputy Secretary- General of a body other than an IAA or IPA
Government-appointed posts	When they are placed directly under a Minister's authority: Commissioner General High Commissioner Secretary-General Delegate-General Delegate
	Director-General of a central administration

Precautionary measures		
Written information from the hierarchical authority	Recusal	Delegation of questions and powers which may put an official in an acknowledged or potential conflict of interest situation
✓ addressed to the President of the local authority	✓ by order	✓ may be decided by the President
✓ addressed to the Chief of Staff and President of the local authority	✓ by order	✓ may be decided by the Chief of Staff
✓ addressed to other board members	✓	✗
✓ addressed to the President	✓	✗
✓ addressed to the CEO	✓	✓ may be decided by the CEO
✓ addressed to the Managing Director or Secretary-General	✓	✓ may be decided by the Managing Director or Secretary-General
✓ addressed to the body's Chairperson	✓	✓ may be decided by the Chairperson
✓ addressed to Managing Director or Secretary-General	✓	✓ may be decided by the Managing Director or Secretary-General
✓ addressed to the Minister under whose authority they are directly placed	✓	✓ may be decided by the said Minister
✓ addressed to the Director-General or Secretary-General	✓	✓ may be decided by the Minister

Administration, organisation or institution of affiliation	Function targeted
Government-appointed posts	Director of a central administration
	Secretary-General of the Government
	Secretary-General of Defence and National Security
	Interministerial Delegate and Delegate
	Head of a Diplomatic mission with the rank of ambassador
	Head of a consular post with the rank of Consul General when there is a special local context or specific difficulties or issues (e.g. Consul General in Jerusalem)
	Regional Prefect
	Départemental Prefect
	Head of the General Inspectorate of Administrative Affairs
	Director of active police services with duties at central administrations
	Head of the General Inspectorate of the National Police
	Regional Chief Education Officer

Precautionary measures

Written information from the hierarchical authority	Recusal	Delegation of questions and powers which may put an official in an acknowledged or potential conflict of interest situation
✓ addressed to the Director-General or Secretary-General	✓	✓ may be decided by the Minister
✓ addressed to the Prime Minister	✓	✓ may be decided by the Prime Minister
✓ addressed to the Prime Minister	✓	✓ may be decided by the Prime Minister
✓ addressed to Prime Minister	✓	✓ may be decided by le Prime Minister
✓ Addressed to the Minister for Europe and Foreign Affairs	✓	✓ may be decided by the Minister
✓ addressed to the Minister for Europe and Foreign Affairs	✓	✓ may be decided by the Minister
✓ addressed to the Minister of the Interior	✓	✓ may be decided by the Minister
✓ addressed to the Regional Prefect	✓	✓ may be decided by the Regional Prefect
✓ addressed to the Minister of the Interior	✓	✓ may be decided by the Minister
✓ addressed to the Minister of the Interior	✓	✓ may be decided by the Minister
✓ addressed to the Minister of the Interior	✓	✓ may be decided by the Minister
✓ addressed to the Minister of National Education and Youth and the Minister of Higher Education, Research and Innovation	✓	✓ may be decided by the Minister

Administration, organisation or institution of affiliation	Function targeted
Government-appointed posts	Chief Education Officer
	Head of the Inspectorate-General of Finances
Companies	Managing Director of a national company
	Managing Director of an EPIC
	Managing Director of a subsidiary of a national company or EPIC with a turnover of more than 10 million euros
	Managing Director of a public housing office
	Managing Director of a local semi-public company or local public sector company
	President of a delegatee sports federation
	Managing Director of a body tasked with organisation of an international sports competition in France Delegatee of signature of legal representatives of a body tasked with organisation of an international sports competition in France

Precautionary measures

Written information from the hierarchical authority	Recusal	Delegation of questions and powers which may put an official in an acknowledged or potential conflict of interest situation
✓ addressed to the regional Chief Education Officer	✓	✓ may be decided by the regional Chief Education Officer
✓ addressed to the Minister of Economy and Finance	✓	✓ may be decided by the Minister
✓ addressed to the company's Chairperson	✓	✓ may be decided by the Chairperson
✓ addressed to the EPIC's Chairperson	✓	✓ may be decided by the Chairperson
✓ addressed to the subsidiary's Chairperson	✓	✓ may be decided by the Chairperson
✓ addressed to the public housing office's Chairperson	✓	✓ may be decided by the Chairperson
✓ addressed to company's Chairperson	✓	✓ may be decided by the Chairperson
✓ addressed to the Ministry of Sport	✓	✓ may be decided by the Minister
✓ addressed to the President of the body	✓	✓ may be decided by the President
✓ addressed to the legal representative	✓	✓ may be decided by the legal representative

Appendix 4:

Summary table of employees and public officials subject to ethical controls in the context of a public / private mobility

	Creation or takeover of a company (combination of activities)
All public officials (apart from the exceptions referred to below)	○
The President of the Republic's staff	✓
Members of ministerial cabinets	✓
Managing Directors of Services in regions, départements, municipalities and EPCIs with over 40,000 in habitants	✓
Directors of central administrations	✓
Directors of State public institutions appointed by the Council of Ministers	✓
Directors of public hospitals provided with budgets exceeding 200 million euros	✓

- ✓ **Mandatory referral to the HATVP**
The administration must refer to the HATVP.
The employee may only refer to the HATVP if their hierarchical authority has not done so.
- **Optional referral to the HATVP**
The employee’s hierarchical authority carries out the ethical control.
If it has any serious doubts on the project in question, it can request an opinion from its ethics officer. If the doubt persists, the hierarchical authority can refer to the HATVP.

Professional transition to the private sector	Opinion prior to nomination (pre-nomination)
○	✗ No referral to the High Authority
✓	✓ Only if they have worked in the private sector during the 3 years preceding nomination
✓	✓ Only if they have worked in the private sector during the 3 years preceding nomination
✓	✓ Only if they have worked in the private sector during the 3 years preceding nomination
✓	✓ Only if they have worked in the private sector during the 3 years preceding nomination
✓	✓ Only if they have worked in the private sector during the 3 years preceding nomination
✓	✓ Only if they have worked in the private sector during the 3 years preceding nomination

Deputy Directors-General of municipalities and EPCIs with over 40,000 inhabitants	✓
Directors-General of technical services in municipalities and EPCIs with over 40,000 inhabitants	✓
Chiefs of Staff, Deputy Chiefs of Staff and Principal Private Secretaries in large communities' local authorities (regions, départements, special status collectivities, Lyon Metropolis, French Overseas collectivities, and municipalities with over 20,000 habitants, EPCIs with their own tax system with over 20,000 inhabitants or budgets of over 5 million euros, and EPCIs with budgets of over 5 million euros)	✓
Members of the Council of State	✓
Judges presiding at administrative tribunals and courts of appeal	✓
Judges at the Court of Auditors and Regional Chambers of Auditors	✓
Directors, Deputy Directors, Secretaries-General and Deputy Secretaries-General of independent administrative authorities (IAAs) and independent public authorities (IPAs)	✓
Other persons in Government-appointed posts or functions and appointed by the Council of Ministers	✓
Other employees in posts included in Decree no.2016-1967 of 28 December 2016	✓
Members of the Government	✗ No referral to the High Authority
Members of independent administrative authorities (IAAs) and independent public authorities (IPAs)	✗ No referral to the High Authority
Presidents of local executive bodies (Mayors of municipalities with over 20,000 inhabitants, Presidents of Regional Councils, Presidents of Départemental Councils and Presidents of EPCIs with over 20,000 habitants)	✗ No referral to the High Authority

✓	○
✓	○
✓	○
✓	○
✓	○
✓	○
✓	○
✓	○
✓	○
✓ Special case: it is up to the public official to refer to the High Authority personally	✗ No referral to the High Authority
✓ Special case: it is up to the public official to refer to the High Authority personally	✗ No referral to the High Authority
✓ Special case: it is up to the public official to refer to the High Authority personally	✗ No referral to the High Authority

Appendix 5:

List of publications in 2019

- Factsheet no.4283 – S’inscrire sur le répertoire numérique des représentants d’intérêts (Registering in the digital register of interest representatives), Lexis360°, 28 January 2019

- Factsheet no.4315 – Contrôle de la reconversion professionnelle des responsables publics (Control of public officials’ professional transition), Lexis360°, 24 June 2019

- HATVP, “L’encadrement progressif des conflits d’intérêts des parlementaires” (Progressive supervision of parliamentarians’ conflicts of interest), in Frédéric Davansant, Agnès Louis, Isabelle Thumerel (ed.), *Discipline et indiscipline parlementaire (Parliamentary Discipline and Indiscipline)*, Francophone Institute for Justice and Democracy, 2020

- HATVP, “Les outils de la déontologie” (The Tools of Deontology), in Alexis Zarca (ed.), *Les outils au service de la déontologie. Regards croisés dans the civil service et dans l’entreprise (Different Perspectives in the civil service and business)*, LGDJ, forthcoming, October 2020

- HATVP, “Rapports entre lobbies et les parlementaires: regard de la Haute Autorité pour la Transparence de la Vie Publique” (Relationships between lobbies and MPs: the HATVP’s view), in Jean-François Kerléo, (ed.), *Transparence et déontologie parlementaire, bilan et perspectives*, Varenne University Institute, 2019

- Jean-Louis Nadal, “Les représentants d’intérêts et la Haute Autorité pour la Transparence de la Vie Publique” (Interest representatives and the HATVP), in Jean-François Kerléo (ed.), *Le lobbying – Influence, contrôle et légitimité des représentants d’intérêts (Lobbying – Influence, Control ad Legitimacy of Interest Representatives)*, LGDJ, forthcoming, July 2020

- Jean-Louis Nadal, “Éditorial. Le risque pénal dans les collectivités territoriales: quelles bonnes pratiques pour le prévenir?” (Criminal risk in local authorities: what best practices to prevent it?), *AJCT*, 2019/5, May 2019

- Jean-Louis Nadal, “La Haute Autorité pour la Transparence de la Vie Publique, une réponse à la défiance envers les responsables politiques et administratifs” (The HATVP, a response to mistrust of political and administrative officials), *L’ENA hors les murs*, no.494, October 2019

ISSN

2647-3771

Graphic design

Nouvelle étiquette

Trainee: Alexandre Tal

Cover illustration

iStock

Printing

Imprimerie Moderne
(Pont-à-Mousson)

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